

United States Senate
Committee on the Judiciary

Questionnaire for Non-Judicial Nominees
Appendix 12(d)

WILLIAM PELHAM BARR
Nominee to be United States Attorney General

During my long career in the public and private sectors, I have had many opportunities to provide remarks, speak on panels, present awards, and engage in numerous other instances of public commentary. I have not kept detailed records of all such appearances. The following materials were compiled after a review of my own records and through searches of publicly available records by persons acting on my behalf. It includes those events for which I have either personal recollection or records of having spoken; it also includes some events that I cannot personally recall or verify attending, but for which there is some public indication that I may have spoken there. As requested, when I can recall the nature of my remarks at an event and have not provided notes, a transcript, or a recording, I have included a description of what my remarks were or would have been.

July 11, 2018: Panelist, “Agency and Outside Perspectives on Independent Oversight,” Inspector General Act of 1978 Commemoration Conference, Council of the Inspectors General on Integrity and Efficiency, Washington DC. <https://www.youtube.com/watch?v=WHpnk5f1SS0>. Press report supplied.

November 8, 2017: Speaker, “James F. Rill Fellowship Program,” Department of Justice Antitrust Division, Washington, DC. I recounted Jim Rill’s contributions to antitrust enforcement as Assistant Attorney General during my time at the Department. I have no notes, transcript, or recording. The address of the US Department of Justice is 950 Pennsylvania Avenue NW, Washington, DC 20530.

October 20, 2017: Panelist, “Practicing Law from the Top of the Public and Private Sectors,” George Washington Law School, Washington, DC. I spoke on a panel and at a lunch reception about my experiences in government and in industry. I have no notes, transcript, or recording. The address of George Washington Law School is 2000 H Street NW, Washington, DC 20052.

March 30, 2017: Speaker, “The Role of Director in Reputation Risk,” George Washington University Law School, Washington, DC. I spoke about the role that corporate directors play in reputation risk. I have no notes, transcript, or recording. The address of George Washington Law School is 2000 H Street NW, Washington, DC 20052.

March 20, 2012: Speaker, “Obamacare in Briefs: The Amicus Writers Preview the Key Questions,” The Heritage Foundation, Washington, DC. I do not recall speaking at this event, but I would have spoken about my participation in briefing key issues on the Affordable Care Act. I have no notes, transcript, or recording. The address of The Heritage Foundation is 214 Massachusetts Ave NE, Washington, DC 20002. Press report supplied.

July 24, 2010: Panelist, Summer Meeting, Virginia Bar Association, Hot Springs, Virginia. I have no notes, transcript, or recording. I served on a panel discussion on whether terrorists should be tried in military tribunals or federal criminal

courts. I have no notes, transcript, or recording. The address of the Virginia Bar Association is 1111 East Main Street, Suite 905, Richmond, Virginia 23219. Press report supplied.

May 26, 2010: Panelist, “Permanent Injunctions in the District Courts and ITC: Effects on Competition and Innovation,” U.S. Department of Justice, Alexandria, Virginia. I discussed the implications of seeking exclusion orders before the ITC to intellectual property and antitrust policy. I have no notes, transcript, or recording. The address of the US Department of Justice is 950 Pennsylvania Avenue NW, Washington, DC 20530.

July 31, 2009: Panelist, “Lessons from History: A Conversation with Former Attorneys General,” American Bar Association, Chicago, Illinois. I served on a panel discussing the relationship between the White House and members of the Cabinet. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654. Press reports supplied.

September 17, 2007: Panelist, “Has America Kept the Founder’s Faith?” World Forum on the Future of Democracy, College of William & Mary, Williamsburg, Virginia. Video recording supplied. Press report supplied.

January 16, 2007: Speaker, Law and Information Society Lecture, Fordham Center on Law and Information Policy, New York, New York. Notes supplied. Press report supplied.

Approximately Early 2007: Presenter, “President’s Lecture Series,” Dominican College, Orangeburg, New York. I spoke about the relationship between the President of the United States and members of the Cabinet. I have no notes, transcript, or recording. The address of Dominican College is 470 Western Highway, Orangeburg, New York 10962. Press report supplied.

November 16, 2006: Panelist, “Net Neutrality Debate,” The Federalist Society 2006 National Lawyers Convention, Washington, DC. Recording available at <https://fedsoc.org/conferences/2006-national-lawyers-convention?#agenda-item-net-neutrality-battle-of-the-titans>. Press reports supplied.

November 11, 2006: Panelist, “White House Counsel: Views from the Justice Department,” University of Virginia Miller Center, Charlottesville, Virginia. Copy supplied.

August 21, 2005: Speaker, “Aspen Summit 2005: Cyberspace and the American Dream,” The Aspen Institute, Aspen, Colorado. I spoke about the importance of competition and deregulation to broadband innovation. I have no notes, transcript, or recording. The address of the Aspen Institute is 2300 North Street NW, Suite 700, Washington, DC 20037. Press report supplied.

July 18, 2005: Panelist, “Civil Liberties and Security,” 9/11 Public Discourse Project, Washington, DC. Video available at: <https://www.c-span.org/video/?187714-1/civil-liberties-security>. Press report supplied.

November 12, 2004: Panelist, “Corporations, Securities & Antitrust: Current Developments in Business and Law,” Federalist Society 2004 National Lawyers Convention, Washington, DC. Video available at: <https://www.c-span.org/video/?184419-1/government-business-regulation>. Press report supplied.

March 18, 2004: Speaker, “Matching the Regulatory Regime to the Realities of the Market,” Cato Institute, Washington, DC. Notes supplied. Press report supplied.

November 15, 2002: Panelist, “Law Enforcement Post 9/11: Balancing Civil Liberties and Public Safety,” The Federalist Society, Washington, DC. Transcript supplied.

October 30, 2002: Speaker, “Forum on Litigation and Regulation in Financial Services,” Federalist Society, New York City, New York. I spoke about the importance of deregulation and competition for innovation in financial markets. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street NW, Suite 300, Washington, DC 20006.

October 15, 2002: Keynote Speaker, “Corporate Governance Seminar,” Richmond Bar Association, Richmond, Virginia. I spoke on corporate governance issues. I have no notes, transcript, or recording. The address of the Richmond Bar Association is 707 East Main Street, Suite 1620, Richmond, Virginia 23219. Press report supplied.

June 28, 2001: Speaker, “FCC Regulation Luncheon,” The Manhattan Institute for Policy Research, New York City, New York. I spoke about the importance of competition and deregulation to broadband innovation. I have no notes, transcript, or recording. The address of the Manhattan Institute is 52 Vanderbilt Avenue New York, New York 10017. Press report supplied.

September 28, 2000: Speaker, “Antitrust 2001,” Fulcrum Information Services Inc., Washington, DC 20037. I do not recall speaking at this event, but I would have spoken about the importance of competition and deregulation to telecommunications innovation. I have no notes, transcript, or recording. The address of Fulcrum is 5870 Trinity Parkway, Suite 400, Centreville, Virginia 20120.

August 21, 2000: Speaker, “Cyberspace and the American Dream,” Progress & Freedom Foundation, Aspen, Colorado. I spoke about the importance of competition and deregulation to telecommunications innovation. I have no notes,

transcript, or recording. The address of the Progress & Freedom Foundation is 1444 I Street NW, Suite 500, Washington, DC 20005. Press report supplied.

Early 2000s: Speaker, Benefit for St. Aloysius, New York, New York. Copy supplied.

September 22, 1999: Speaker, “Telecommunications Regulatory Reform,” Information Technology Association of America, Arlington, Virginia. I spoke about the importance of competition and deregulation to telecommunications innovation. I have no notes, transcript, or recording. The Information Technology Association of America is no longer extant. Press report supplied.

September 22, 1999: Speaker, “Intellectual Property Rights: Constitutional Principles and Federalism,” Heritage Foundation, Washington, DC. I spoke about intellectual property rights and the constitution. I have no notes, transcript, or recording. The address of the Heritage Foundation is 214 Massachusetts Ave NE, Washington, DC 20002.

August 9, 1999: Panelist, “Attorneys General Forum,” American Bar Association, Atlanta, Georgia. Video available at: <https://www.c-span.org/video/?151507-1/attorneys-general-forum>. Press report supplied.

March 11, 1999: Panelist, Seminar, Legg Mason, Baltimore, Maryland. I spoke about mergers. I have no notes, transcript, or recording. The address of Legg Mason is 100 International Drive, Baltimore, Maryland 21202. Press report supplied.

December 10, 1998: Speaker, “Annual Institute on Telecommunications Policy and Regulation,” Practicing Law Institute, Washington, DC. I spoke about the effects of the Federal Communications Commission’s regulatory efforts. I have no notes, transcript, or recording. The address of the Practicing Law Institute is 1177 Avenue of the Americas, 2nd Floor, New York, New York 10036. Press report supplied.

August 28, 1998: Speaker, Convocation, College of William & Mary, Williamsburg, Virginia. Speech supplied. Press report supplied.

February 27, 1998: Speaker, Conference, Alliance for Public Technology. I spoke about competition policy in the telecommunications industry. I have no notes, transcript, or recording. The address of the Alliance for Public Technology appears no longer to be extant. Press report attached.

November 13, 1997: Speaker, “Damn the Torpedoes: Full Competition Ahead!” American Enterprise Institute, Washington, DC. I spoke about telecommunications policy. I have no notes, transcript, or recording. The address of the American Enterprise Institute is 789 Massachusetts Avenue, NW,

Washington, DC 20036. Press report supplied.

June 8, 1997: Panelist, Midwestern Governors Conference, Midwestern Governors Association, Overland Park, Kansas. I spoke about telecommunications. I have no notes, transcript, or recording. The address of the Midwestern Governors Association is 2025 M Street NW, Suite 800, Washington, DC 20036. Press report supplied.

December 12, 1996: Panelist, "Telecommunications Act," Practising Law Institute, Washington, DC. I spoke about the Telecommunications Act. I have no notes, transcript, or recording. The address of the Practising Law Institute is 1177 Avenue of the Americas, 2nd Floor, New York, New York 10036. Press report supplied.

October 19, 1996: Panelist, "Attorneys General Forum," University of California, Hastings College of Law, San Francisco, California. Video available at: <https://www.c-span.org/video/?76051-1/attorneys-general-forum>.

October 6, 1996: Speaker, St. Patrick Cathedral, Sixth Annual Red Mass, Norwich, Connecticut. I do not recall the topic of my remarks. I have no notes, transcript, or recording. The address of St. Patrick Cathedral is 213 Broadway, Norwich, Connecticut 06360. Press report supplied.

May 1996 (approximately): Speaker, Commencement Speech to the Class of 1996, Stone Ridge School of the Sacred Heart, Bethesda, Maryland. Notes supplied.

1995: Panelist, "The Bill of Rights, Community Policing, and Community Decorum," The Rights Revolution Symposium, The Federalist Society, Michigan. Transcript attached.

December 2, 1994: Keynote Speaker, "The Challenge and Opportunities We Face," The Middlesex Club, Boston, Massachusetts. I spoke about accountability and responsibility in government. I have no notes, transcript, or recording. The Middlesex Club appears not to have a physical address but can be reached at contact@themiddlesexclub.org. Press report supplied.

November 22, 1994: Speaker, Republican Governors Association, Williamsburg, Virginia. I spoke about the role states play through litigation. I have no notes, transcript, or recording. The address of the Republican Governors Association is 1747 Pennsylvania Avenue NW, Suite 250, Washington, DC 20006. Press report supplied.

November 1994 (approximately): Speaker, Federalist Society, Federalist Society Chapter at Duquesne Law School, Pittsburgh, Pennsylvania. I spoke of my experiences at the Department and recounted notable enforcement operations. I

have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street NW, Suite 300, Washington, DC 20006. Press coverage supplied.

October 22, 1994: Panelist, "Crime Legislation," University of California, Hastings College of Law, San Francisco, California. Video available at <https://www.c-span.org/video/?61790-1/crime-legislation>.

October 22, 1994: Panelist, "Immigration Law," University of California, Hastings College of Law, San Francisco, California. Video available at: <https://www.c-span.org/video/?61172-1/immigration-law>.

August 6, 1994: Speaker, Twenty-First Annual Meeting, American Legislative Exchange Council, Tampa, Florida. I discussed legislative priorities in the criminal justice area. I have no notes, transcript, or recording. The address of the American Legislative Exchange Council is 2900 Crystal Drive, 6th Floor, Arlington, Virginia 22202.

June 26, 1994: Panelist, "Crime, Punishment, and the Criminal Justice System," the Independent Institute, Lawrence, Kansas. Video available at: <http://www.independent.org/multimedia/detail.asp?id=2610> and <http://www.independent.org/multimedia/detail.asp?id=2610&c=2717> and <http://www.independent.org/multimedia/detail.asp?id=2610&c=2718>.

June 22, 1994: Speaker, National Conference on Criminal Violence, National Rifle Association, Washington, DC. I discussed trends in crime statistics. I have no notes, transcript, or recording. The address of the National Rifle Association is 11250 Waples Mill Road, Fairfax, Virginia 22030. Press report supplied.

June 16, 1994: Speaker, Reception, Campaign of Republican Candidate John Greiber, Annapolis, Maryland. I spoke on the importance of law enforcement. I have no notes, transcript, or recording. The Campaign of Republican Candidate John Greiber is no longer extant.

May 25, 1994: Panelist, National Policy Forum on Violent Crime, California State University Fullerton, Fullerton, California. I discussed trends in crime statistics. I have no notes, transcript, or recording. The address of California State University Fullerton is 800 North State College Boulevard, Fullerton, California 92831. Press report supplied.

May 7, 1994: Recipient, Distinguished Alumni Award, George Washington University, Washington, DC. I have no notes, transcript, or recording. I gave comments on receiving the award. The address of George Washington University is 2000 H Street NW, Washington, DC 20052. Press report supplied.

April 5, 1994: Town Hall Host, "Listening to America," National Policy Forum, Columbus, Ohio. This event was a listening session on neighborhood safety. I

have no notes, transcript, or recording. The National Policy Forum was part of the Republican National Committee, the address of which is 310 First Street SE, Washington, DC 20003. Press coverage supplied.

March 28, 1994: Panelist, "A Spirited Discussion," College of William and Mary's Marshall-Wythe School of Law, Williamsburg, Virginia. Notes supplied. Press coverage supplied.

February 9, 1994: Speaker, "Reflections of an Attorney General," Federalist Society Milwaukee Lawyers Chapter, Milwaukee, Wisconsin. I shared anecdotes about the role of the Attorney General. I have no notes, transcript, or recording. The address of the Federalist Society is 1776 I Street NW #300, Washington, DC 20006.

October 23, 1993: Panelist, "Evolution of Attorney General Role," University of California, Hastings College of Law, San Francisco, California. Video available at <https://www.c-span.org/video/?53440-1/evolution-attorney-general-role>. Press coverage supplied.

October 14, 1993: Speaker, "Red Mass" Dinner, Roman Catholic Diocese of Galveston-Houston, Houston, Texas. I spoke about lawyers' contributions to the Catholic Church. I have no notes, transcript, or recording. The address of the Archdiocese of Galveston-Houston is 1700 San Jacinto, Houston, Texas 77002. Press coverage supplied.

September 29, 1993: Keynote Speaker, Appreciation Dinner for Oklahoma County District Attorney Robert H. Macy, Oklahoma City, Oklahoma. I spoke about Mr. Macy's contributions to law enforcement. I have no notes, transcript, or recording. I am unaware of the sponsoring organization. Press report supplied.

February 27, 1993: Speaker, "Congress of Tomorrow," Congressional Institute Inc., Plainsboro, New Jersey. I spoke about Republican politics. I have no notes, transcript, or recording. The address of Congressional Institute Inc. is 1700 Diagonal Road #730, Alexandria, Virginia 22314. Press report supplied.

January 11, 1993: Speaker, Annual Law Enforcement Officer of the Year Banquet, 100 Club of Jefferson County, Beaumont, Texas. I spoke on effective law enforcement programs. I have no notes, transcript, or recording. I have been unable to locate a mailing address for this organization. Press report supplied.

1993 (approximate): Speaker, Bar Association, Virginia. I spoke about criminal justice and my time in the Department of Justice. Notes supplied.

1993 (approximate): Speaker, "Corporate Ethics," Sony In-House Counsel. I do not recall the city and state where this event took place. Notes supplied.

December 17, 1992: Speaker, Presentation of the Portrait of the Honorable Malcolm R. Wilkey, United States Court of Appeals for the District of Columbia Circuit, Washington, DC. Transcript supplied.

December 14, 1992: Speaker, The Attorney General's 41st Annual Awards Ceremony, Department of Justice, Washington, DC. Transcript supplied.

November 15, 1992: Speaker, Attorney General's Remarks, Benjamin N. Cardozo School of Law, New York City, New York. Remarks supplied.

October 29, 1992: Speaker, "Civil Justice Reform," American Corporate Counsel Association, New Orleans, Louisiana. I spoke about matters of civil justice reform. I have no notes, transcript, or recording. The address of the renamed Association of Corporate Counsel is 1001 G Street NW, Suite 300W, Washington, DC 20001.

October 27, 1992: Speaker, 99th Conference of the International Chiefs of Police, Minneapolis, Minnesota. Notes supplied.

October 16, 1992: Speaker, Press Conference Announcing Judge Frederick B. Lacey's Appointment as Independent Counsel re: BNL, U.S. Department of Justice, Washington, DC. Document supplied. Press coverage supplied.

October 6, 1992: Speaker, Presentation at Catholic League for Religious and Civil Rights Dinner, Washington, DC. Document supplied. Press coverage supplied.

October 1992 (approximately): Speaker, St. Thomas More Award Acceptance, Catholic Lawyers Guild of New York, New York, New York. Speech supplied.

September 30, 1992: Speaker, Presentation to Pennsylvania State-Wide L.E.C.C. Conference, Camp Hill, Pennsylvania. Document supplied.

September 29, 1992: Speaker, Presentation to Commonwealth Club, San Francisco, California. Document supplied. Press coverage supplied.

September 26, 1992: Speaker, Presentation at Hispanic Bar Association Luncheon, Atlantic City, New Jersey. I do not recall the subject of my remarks. I have no notes, transcript, or recording. The address of the Hispanic Bar Association is 1020 19th Street NW #505, Washington, DC 20036.

September 25, 1992: Speaker, Presentation at Asian-Pacific American Bar Association Luncheon, Washington, DC. Document supplied.

September 18, 1992: Speaker, Swearing-in Ceremony for Henry Hudson as Director of U.S. Marshals Service, Arlington, Virginia. Document supplied.

September 17, 1992: Speaker, Presentation at Rotary Club Luncheon, Conyers, Georgia. Document supplied.

September 11, 1992: Speaker, Presentation to Society of Former Special Agents of the FBI, San Diego, California. Document supplied.

September 10, 1992: Speaker, Presentation to Michigan Crime Summit, Lansing, Michigan. Document supplied.

September 2, 1992: Speaker, Conference of the Organized Crime Drug Enforcement Task Force, U.S. Department of Justice, San Antonio, Texas. Document supplied. Press coverage supplied.

August 27, 1992: Speaker, Presentation to Sexual Assault Conference, New York, New York. Document supplied.

August 18, 1992: Speaker, Presentation to National Organization for Victim Assistance, Kansas City, Missouri. Document supplied. Press coverage supplied.

August 10, 1992: Speaker, 35th Annual Convention, Southern Christian Leadership Conference, Dayton, Ohio. Document supplied. Press coverage supplied.

August 5, 1992: Speaker, Presentation to Knights of Columbus, New York, New York. Document supplied.

August 3, 1992: Speaker, Presentation to Congress of Corrections, American Correctional Association, San Antonio, Texas. Document supplied.

July 29, 1992: Speaker, "Crime, Poverty, and the Family," Heritage Foundation, Washington, DC. Document supplied.

July 28, 1992: Speaker, "Combatting Violent Crime: 24 Recommendations to Strengthen Criminal Justice," Department of Justice, Washington, DC. Document supplied.

Mid-1992 (approximate): Speaker, Weed & Seed Steering Committee, Fort Worth, Texas. Notes supplied.

July 22, 1992: Speaker, Presentation to FBI National Academy Associates, Section II National Training Conference, Fort Worth, Texas. Document supplied.

July 20, 1992: Speaker, "Combatting Violent Crime in America," Presentation to Florida Sheriffs Association, Fort Meyers, Florida. Document supplied.

July 8, 1992: Speaker, Southeast Region Summit on Violent Crime, United States

Department of Justice, Charlotte, North Carolina. I spoke about the need to fund law enforcement. I have no notes, transcript, or recording. The address of the US Department of Justice is 950 Pennsylvania Avenue, NW, Washington, DC 20530. Press coverage supplied.

June 23, 1992: Speaker, "Immigration and Violent Crime," Presentation at Town Hall of California Luncheon, Los Angeles, California. Document supplied. Video available at <https://www.c-span.org/video/?26762-1/immigration-violent-crime>.

June 21, 1992: Speaker, Presentation to National Sheriffs Association, San Diego, California. Transcript supplied.

June 7, 1992: Speaker, Remarks for Receiving the Humanitarian Award, Agudath Israel of America 70th Anniversary Dinner, New York, New York. Document supplied. Press report supplied.

May 31, 1992: Speaker, Commencement Speech, George Washington University National Law Center, Washington, DC. Document supplied.

May 24, 1992: Speaker, Commencement Speech, Catholic University of America Law School, Washington, DC. Copy supplied.

May 21, 1992: Speaker, Presentation at California Peace Officers' Association 72nd Annual Training Conference, Palm Springs, California. Document supplied.

May 20, 1992: Speaker, Brent Society Awards Dinner, Brent Society of the Roman Catholic Diocese of Arlington, Arlington, Virginia. Document supplied.

May 14, 1992: Speaker, Presentation at Citizens Crime Commission of the Delaware Valley Annual Law Enforcement Appreciation Day Luncheon, Philadelphia, Pennsylvania. Document supplied.

May 14, 1992: Speaker, Presentation at National Troopers Coalition Conference, Linthicum, Maryland. Document supplied.

May 11, 1992: Speaker, Swearing-In of Deputy Attorney General and Associate Attorney General, Department of Justice, Washington, DC. I made remarks at the swearing-in of Department of Justice officials. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Ave NW, Washington, DC 20530. Press coverage supplied.

May 8, 1992: Speaker, Presentation at Greater Dallas Crime Commission Luncheon, Dallas, Texas. Document supplied.

April 30, 1992: Speaker, Grand Rapids Rotary and Economics Club, Grand Rapids, Michigan. Notes supplied.

April 30, 1992: Speaker, Press Conference Re: Rodney King, U.S. Department of Justice, Washington, DC. Document supplied.

April 27, 1992, Speaker, "Expanding Capacity for Serious Offenders," Attorney General's Summit on Corrections, McLean, Virginia. Remarks supplied.

April 24, 1992: Speaker, Presentation at Victims Rights Week Ceremony in the Rose Garden, Washington, DC. Document supplied.

April 23, 1992: Speaker, Presentation to Leaders of Victims Groups, Philadelphia, Pennsylvania. Document supplied. Press coverage supplied.

April 22, 1992: Speaker, Presentation to Pittsburgh Rotary Club, Pittsburgh, Pennsylvania. Document supplied.

April 11, 1992: Speaker, Presentation at Baylor University School of Law 1992 Law Day Banquet, Waco, Texas. Document supplied.

April 9, 1992: Speaker, Press Conference Re: Noriega Verdict, U.S. Department of Justice, Washington, DC. Document supplied.

April 6, 1992: Speaker, "Weed & Seed," U.S. Department of Justice, Philadelphia, Pennsylvania. Notes supplied. Press report supplied.

April 6, 1992: Speaker, "Weed & Seed," U.S. Department of Justice, Richmond, Virginia. I spoke about the Department's "Weed & Seed" program. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Ave NW, Washington, DC 20530. Press coverage supplied in response to entry above.

April 1, 1992: Speaker, Governor's Conference on Juvenile Crime, Drugs and Gangs, Milwaukee, Wisconsin. Remarks and press coverage supplied.

March 27, 1992: Speaker, Presentation to International Brotherhood of Police Officers, Boston, Massachusetts. Document supplied.

March 25, 1992: Speaker, Presentation at Mid-America Committee Luncheon, Chicago, Illinois. Document supplied.

March 23, 1992: Speaker, Presentation at Economic Club of Detroit Luncheon, Detroit, Michigan. Document supplied.

March 19, 1992: Speaker, Maryland Summit on Violent Street Crime, Baltimore, Maryland. I discussed strategies for combating violent crime. I have no notes, transcript, or recording. I do not know the sponsoring organization, if any, for this

event. Press report supplied.

March 1, 1992: Speaker, Presentation at United States Attorneys' National Conference, U.S. Department of Justice, Orlando, Florida. Document supplied. Press coverage supplied.

February 11, 1992: Speaker, Greater Dallas Crime Commission, Dallas, Texas. I discussed crime policy. I have no notes, transcript, or recording. The address of the Greater Dallas Crime Commission is 400 South Zang Boulevard, Suite C60, Dallas, Texas 75208. Press coverage supplied.

February 10, 1992: Speaker, San Diego Chamber of Commerce, San Diego, California. Copy supplied. Press coverage supplied.

February 9, 1992: Speaker, Law Enforcement Leaders of the San Diego Community, San Diego, California. Notes supplied.

February 8, 1992: Speaker, Fifteenth Annual Law School Dinner, Pepperdine University School of Law, Biltmore Hotel, Los Angeles, California. I do not recall the topic of my remarks. I have no notes, transcript, or recording. The address of the Pepperdine University School of Law is 24255 Pacific Coast Highway, Malibu, California 90263.

February 8, 1992: Judge, 18th Annual Vincent S. Dalsimer Moot Court Competition, Pepperdine University School of Law, Malibu, California. I served as a judge at a moot court competition. I have no notes, transcript, or recording. The address of the Pepperdine University School of Law is 24255 Pacific Coast Highway, Malibu, California 90263.

February 7, 1992: Speaker, Executive Training Session, Federal Executive Institute Alumni Association, Washington, DC. I spoke at the Alumni Association's executive training session. I have no notes, transcript, or recording. The address of the U.S. Department of Justice is 950 Pennsylvania Avenue, NW, Washington, DC 20530.

January 31, 1992: Speaker, Presentation at Attorney General's 40th Annual Awards Ceremony, U.S. Department of Justice, Washington, DC. Speech supplied.

January 30, 1992: Speaker, About Face Program, Memphis, Tennessee. I discussed the "About Face" program for young drug offenders. I have no notes, transcript, or recording. The address of the U.S. Department of Justice is 950 Pennsylvania Avenue, NW, Washington, DC 20530. Press report supplied.

January 30, 1992: Presenter, Ceremony Presenting Check to Tennessee Highway Patrol, Memphis, Tennessee. I presented funds recovered from a cocaine-

smuggling operation. I have no notes, transcript, or recording. The address of the Tennessee Highway Patrol, District Four Headquarters, is 6348 Summer Avenue, Memphis, Tennessee 38134. Press coverage supplied.

January 15, 1992: Speaker, Address to the Law Enforcement Coordinating Committee, Houston, Texas. I discussed the Department's efforts to help states address court-imposed limits on prison populations. I have no notes, transcript, or recording. The address of the U.S. Department of Justice is 950 Pennsylvania Avenue, NW, Washington, DC 20530. Representative press reports supplied.

January 14, 1992: Speaker, Presentation at 1992 Winter Conference, California District Attorneys Association, Palm Springs, California. Speech supplied. Representative press reports supplied.

December 23, 1991 (approximate): Speaker, Reception at Boys & Girls Clubs of America Honoring Nike, Beaverton, Oregon. I spoke at a luncheon honoring Nike in recognition of its support for children from disadvantaged circumstances. I have no notes, transcript, or recording. The address of the Boys & Girls Club of America is 1275 Peachtree Street Northeast, Atlanta, Georgia. Press report supplied.

December 18, 1991: Speaker, 1991 Winter Conference Luncheon, Illinois State's Attorneys Association, Chicago, Illinois. Speech supplied. Press reports supplied.

December 11, 1991: Speaker, Presentation at National Board Meeting and Recognition Luncheon, Boys and Girls Club of America, New York, New York. Speech supplied.

December 4, 1991: Speaker, Presentation of Proceeds of Drug Asset Forfeiture Program, London, United Kingdom. I delivered a check to the British government in recognition of British detective work in uncovering money-laundering networks. I have no notes, transcript, or recording. The address of the United States Department of Justice is 950 Pennsylvania Avenue, NW, Washington, DC 20530. Press report supplied.

November 26, 1991: Speaker, Swearing-in Ceremony of William P. Barr as 77th Attorney General of the United States, United States Department of Justice, Washington, DC. Video available at: <https://www.c-span.org/video/?23005-1/attorney-general-swearing>. Press report supplied.

November 1, 1991: Presenter, Ceremony Honoring Justice Clarence Thomas, Supreme Court of the United States, Washington, DC. I presented a proclamation from President Bush appointing Justice Thomas to the Supreme Court of the United States. I have no notes, transcript, or recording. The address of the Supreme Court of the United States is 1 First Street NE, Washington, DC 20543. Press report supplied.

October 16, 1991: Speaker, Attorney General Nomination Announcement, The White House, Washington, DC. Video available at: <https://www.c-span.org/video/?22079-1/attorney-general-nomination-announcement>. Press report supplied.

October 14, 1991: Speaker, Columbus Day Quincentenary Celebration, National Christopher Columbus Association, Washington DC. I made remarks commemorating Columbus Day. I have no notes, transcript, or recording. The address of the National Christopher Columbus Association is 5034 Wisconsin Avenue NW, Washington, DC 20016. Press coverage supplied.

October 7, 1991: Speaker, 98th Conference of the International Chiefs of Police, Minneapolis, Minnesota. Copy supplied.

October 4, 1991: Speaker, Presentation at CFC Campaign Kickoff, United States Department of Justice, Washington, DC. Speech supplied.

October 2, 1991: Speaker, Crime Stoppers International Annual Conference, Louisville, Kentucky. Speech supplied.

September 26, 1991: Speaker, Multinational Conference on Asian Organized Crime, San Francisco, California. Speech supplied. Press report supplied.

September 23, 1991: Speaker, Presentation at the Signing Ceremony of the United States-EC Antitrust Cooperation Agreement, Washington, DC. Speech supplied.

September 19, 1991: Speaker, Presentation at National Hispanic Heritage Ceremony, U.S. Department of Justice, Washington, DC. Speech supplied.

August 23, 1991: Speaker, Ground-Breaking Ceremony, FBI Identification Center, Clarksburg, West Virginia. Speech supplied.

August 15, 1991: Speaker, "Farewell Address to Department of Justice," Department of Justice, Washington, DC. Video available at: <https://www.c-span.org/video/?20587-1/farewell-address-department-justice>. Press reports supplied.

July 9, 1991: Speaker, Department of Justice Presentation of Drug Asset Forfeiture Funds to Pennsylvania and New Jersey Law Enforcement Agencies, Philadelphia, Pennsylvania. I presented funds seized in federal investigations to law enforcement agencies. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue, NW, Washington, DC. 20530. Press report supplied.

June 7, 1991: Panelist, "Crime in the Streets: Must it Produce Congestion in the

District Courts?” Judicial Conference of the District of Columbia Circuit, Williamsburg, Virginia. Transcript supplied.

May 2, 1991: Panelist, “First Amendment v. National Security,” Federal Communications Bar & American Bar Association, Washington, DC. Video available at: <https://www.c-span.org/video/?17804-1/amendment-v-national-security>.

March 20, 1991: Speaker, Department of Justice Presentation of Asset Forfeiture Funds to New England Law Enforcement Agencies, Boston, Massachusetts. I presented seized funds to local officials for use in financing drug investigations. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue, NW, Washington, DC 20530. Press report supplied.

March 4, 1991: Panelist, “Preparing for Crime in the Future,” The 1991 Crime Summit, Washington, DC. Video available at: <https://www.c-span.org/video/?16940-1/preparing-crime-future>.

February 1991: Moderator, “Panel I: Should the Bill of Rights Fully Protect Fundamental Freedoms?” Federalist Society Symposium on Law and Public Policy, Federalist Society, New Haven, Connecticut. Published remarks supplied.

Late 1990: Speaker, “Strengthening the Rule of Law in the War Against Drugs and Narco-Terrorism,” American Bar Association Standing Committee on Law and National Security, Washington, DC. I spoke about possible measures in the global war on drugs. I have no notes, transcript, or recording. The address of the American Bar Association is 321 North Clark Street, Chicago, Illinois 60654. Press report supplied.

January 20, 1990: Panelist, “The Appropriations Power and the Necessary and Proper Clause,” The Federalist Society. Video available at: <https://www.c-span.org/video/?10707-1/appropriation-power>.

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Attachments to Question 12(d)

WILLIAM PELHAM BARR
Nominee to be United States Attorney General

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Inspectors General Mark 40th Year Feeling Needed But Stretched

Charles S. Clark

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Sen. Chuck Grassley called them "a force multiplier." Former Attorney General William Barr said they have "the hardest job in any organization." And Special Counsel Henry Kerner said that without a connection to them, his agency would be a "leaf in the wind."

All spoke on Wednesday to an assembly of inspectors general staged on Capitol Hill to mark the 40th year since passage of the Inspector General Act. The all-day event delivered a mélange of praise, tips for improvement, and an ambitious future agenda that seeks more resources and sharing of administrative services.

The work of the government's 73 watchdogs in search of waste, fraud and abuse is "more challenging in today's polarized environment, but the good news is we are getting called up to do this work," said Michael Horowitz, the Justice Department's inspector general and chair of the Council of the Inspectors General on Integrity and Efficiency. "After 40 years, the administration, Congress and the public see us as independent."

Horowitz—who enjoyed a moment in the spotlight after having delivered last month a historic and lengthy report on the FBI's handling of Hillary Clinton's controversial email conduct during the 2016 election campaign—acknowledged that IGs work "in a narrow area." The watchdogs "are not to settle policy disputes or political battles but answer whether our programs are working."

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Today IG's work in an era when "government is getting more complicated, and the issues are getting bigger," he added. That means IGs "have to evolve," and "recognize that government is crossing lanes more." IGs have to do more cross-agency work and grow "new competencies" in such areas as data analytics.

Forty years years of independence and a tricky dual reporting relationship to both their agency heads and to Congress was captured in a video of interviews with stars in the field. Beginning in 1978 with just 12 appointees, IGs began with no separate legal counsel and no separate budget.

Their origination was "post-Watergate, when no one trusted anybody," said Peg Gustafson, IG for the Commerce Department and previously watchdog at the Small Business Administration. And in navigating the need to keep agency heads and Congress informed, "you piss everybody off at some point," she added.

IGs went on to acquire greater powers through several pieces of legislation affecting their access to documents and creating their joint council of both presidentially appointed and agency-appointed officeholders.

The access to documents remains a challenge, many noted. "Even the impression that we don't have access to all records undermines our investigations," said Robert Storch, IG for the National Security Agency, in the video.

The value of IGs comes because "the executive branch is exponentially bigger than the legislative branch, so Congress' ability to oversee agencies has become more difficult," Grassley said. "Individual members [of Congress] on their own cannot force agencies to answer questions," he said. So IGs are the "eyes and ears."

Penetrating the 'Cloak of Secrecy'

Grassley also stressed the importance of whistleblowers to IGs' ability to keep Congress informed. He estimated that more than 80 percent of the useful tips he gets come from whistleblowers, perhaps 8-10 percent from "investigating or crusading journalists" and perhaps 5 percent from staff. Whistleblowers and IGs "are the lifeblood" that allows Congress to "know what's behind the agency's talking points," he said.

But in a flash of self-criticism, Sen. Heidi Heitkamp, D-N.D., who serves on the Homeland Security and Governmental Affairs Committee, said, "I don't think Congress responds enough to IG recommendations," which she called "a treasure chest of good ideas."

Her committee's chairman, Sen. Ron Johnson, R-Wis., called IGs "very important" to what he called the "public's legitimate evaluation of government as inefficient and ineffective. We rely on IGs to provide the ideas because, who can possibly get their head around a \$4 trillion entity?" he said. He said he couldn't understand why IGs aren't looked at "more cooperatively" by the agency heads.

For years, incoming agency heads were surprised that they could not give orders to the IG, as Defense Department deputy IG (acting as IG) Glenn Fine recalled from his days as Justice Department IG. Now it is common for IGs to sit in on monthly leadership meetings, several noted. Former Postal Service IG Dave Williams recommended that agency heads and IGs sit down with their staffs and "determine what they want and are afraid of, and what you want and are afraid of."

The relationship will include "blowups," said Gaston Gianni, former inspector general of the Federal Deposit Insurance Corporation. "But you can disagree professionally."

Several IGs talked of how they strategize to word their reports carefully to achieve fair press coverage despite the fact that many in the public regard much of their routine work as boring. "I viewed the press as the second place to go if I couldn't get action from the agency," Gianni said. "But I was not in the business of trying to get negative press on the agency—unless it needed it."

Washington Post stalwart reporter Bob Woodward, who spoke to the IGs on the lessons of Watergate, recommended that they do more face-to-face interviewing to truly gauge what makes the subjects tick. Today, "the forces of secrecy are beating the forces of transparency," said the longtime investigative reporter who is working on a book on the Trump White House. "The cloak of secrecy only gets wider and stronger."

A major problem mentioned by nearly all was the high number of vacancies (13 at present) and the lengthy time frames for nominations and Senate confirmations. Daniel Levinson, inspector general at the Health and Human Services Department, said the latest numbers show that over the decades, the average number of days for IG nominations has been 290, with 120 days for confirmation, longer than for other high-level agency positions.

Horowitz said vacancies are "bad for government generally since the demands from Congress never end." He also worried about the "willingness of people to come to Washington do to these jobs." He wondered whether qualified candidates outside the Beltway "can stand to wait two or three years for confirmation, and then they're expected to be on the job in two weeks."

---- **Index References** ----

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NewsRoom

**EVENT: DISCUSSION - THE HERITAGE FOUNDATION;
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Auditorium, Washington, D.C. -- March 20, 2012 12:00 PM**

>DC Daybook - Policy & News Events

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Section: GENERAL NEWS EVENTS

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Body

SUBJECT:

The Heritage Foundation holds a discussion on "Obamacare in Briefs: The Amicus Writers Preview the Key Questions," about the constitutionality of the Patient Protection and Affordable Care Act.

PARTICIPANTS:

Steve Bradbury, author of three briefs for Nobel and other economists on the health care law, Medicaid and severability issues; Erik Jaffe, lawyer for Docs4PatientCare, the Galen Institute, Angel Raich and others; Michael Rosman, lawyer for former Attorneys General John Ashcroft, William Barr, Edwin Meese and Michael Mukasey, and oral advocate who won the last landmark Commerce clause case, United States v. Morrison; and Carrie Severino, author of three briefs for House Speaker John Boehner, R-Ohio, 43 senators regarding the health care law, and 36 senators regarding severability

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Load-Date: March 19, 2012

Bar panel debates trials for accused terrorists

Richmond Times-Dispatch (VA) - July 25, 2010

- Author/Byline: EMILY C. DOOLEY | TIMES-DISPATCH STAFF WRITER
- Section: Virginia News

HOT SPRINGS -- Giving an accused terrorist intent on attacking American citizens a trial in civilian court is a "constitutional absurdity," former U.S. Attorney General William P. Barr said yesterday.

Speaking at the Virginia Bar Association summer meeting at The Homestead resort, Barr said foreign enemies do not deserve the same protections afforded citizens.

"I say the Constitution gives no rights whatsoever to a foreigner who is attacking the United States," said Barr, who was attorney general from 1991 to 1993.

Barr participated in a panel discussion on whether the government should deal with terrorists in military tribunals or federal civil courts.

He was joined by Neil H. MacBride, U.S. Attorney for the Eastern District of Virginia, and Mike Allen, chief political correspondent for Politico and a former Richmond Times-Dispatch reporter.

"This is a situation where I'm certain reasonable people can disagree," said moderator Richard Cullen, chairman of McGuireWoods and former Virginia attorney general.

MacBride said both options have positives and negatives and different situations can make one form of action better than another.

In military tribunals, MacBride said, the burden of proof is the same but does not require a unanimous verdict; the Miranda warning is not a requirement, making it easier to admit confessions; courtrooms can be closed to the public; and hearsay rules are relaxed.

In civilian, or Article 3, trials, procedures and rules are set that can lead to a more swift progression; the courts are not limited to only trying al-Qaida and Taliban; incentives for defendants to cooperate and provide information are more established; and foreign governments may be more willing to cooperate with evidence, he added.

"Why should we arbitrarily bar using them?" he said.

Barr countered that foreign governments may be more leery of exposing intelligence in open civilian courts.

High-profile civilian trials may also have their own challenges relating to suitable locations and facilities.

In November the White House announced that Sept. 11 plotter Khalid Sheikh Mohammed would be tried in civilian court. The plan was to hold the trial in New York City, to which the Mayor Michael R. Bloomberg and New York Police Department objected.

Where the trial will be held remains to be seen, Allen said.

He said the most logical place would be Guantanamo Bay in Cuba, but President Barack Obama has announced plans to close the detainee facility, which would send mixed signals.

Finding a state that would accept the prisoners or trials is also a burden and Allen said a decision will not likely be made until after the November election.

"There doesn't seem to be a clear path to disentangling that," Allen said.

The bar association's meeting began Thursday. On Friday, the organization honored the Bristol Herald Courier for its Pulitzer Prize-winning series on the mishandling of natural gas royalties owed to thousands of Southwest Virginia landowners. The Legal Journalism Award was accepted by reporter Daniel Gilbert, author of the series for the newspaper owned by Media General Inc., and publisher Carl Esposito.

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Former U.S. attorneys general doubt benefits of interrogations probe

Times Argus, The (Barre-Montpelier VT) (Published as Times Argus, The (Montpelier-Barre, VT)) - August 1, 2009

• Author/Byline: MIKE ROBINSON The Associated Press

• Section: NEWS01

CHICAGO - Six former U.S. attorneys general expressed doubts Friday about the wisdom of launching a federal investigation into whether interrogations of terrorism suspects following the 9/11 attacks violated the law.

Such an investigation wouldn't fix policies that have been criticized because the new administration already has changed them, said former Attorney General Benjamin Civiletti told a panel discussion at the annual meeting of the American Bar Association in Chicago. Civiletti was the only one of former attorneys general who served in a Democratic administration.

Civiletti, who served under President Jimmy Carter, said the probe could end up as "a hunt for that which can't be identified any more than it has already been identified."

"The likelihood of producing prosecutable cases and penalties of some nature is very remote," he said.

Attorney General Eric Holder is weighing whether to name a criminal investigator to determine whether laws were violated during interrogations of terrorism suspects after Sept. 11, 2001, according to a Justice Department official, who requested anonymity to discuss a pending matter. Holder is said to be focusing on whether to prosecute interrogators who went beyond legal boundaries laid by Justice Department lawyers.

The move would be certain to stir partisan bickering on Capitol Hill and be a distraction at a time when President Barack Obama is trying to win support for a sweeping health care initiative.

Obama, a Democrat, has repeatedly expressed reluctance about a probe into alleged abuses under the administration of Republican President George W. Bush administration, saying he wants to look forward.

Dick Thornburgh, who served under Presidents Ronald Reagan and George H.W. Bush, stressed the urgency in the minds of many Americans about capturing terrorists and heading off a catastrophe involving weapons of mass destruction.

Thornburgh said anyone who prevented an attack and saved millions of lives would most likely get "a ticker tape parade down Broadway" - even if he used torture, illegal wiretaps and warrantless searches to do it.

Michael Mukasey, who served under George W. Bush, said he saw no realistic means of prosecuting anyone because of irregularities in the interrogations. And Edwin Meese, attorney general under Reagan, said prosecuting attorneys for writing opinions justifying harsh interrogation methods by CIA personnel would set a bad precedent.

John Ashcroft, who served under George W. Bush, said the president needs enough power to defend the country.

"When it comes to national security I think you have to give the president the benefit of the doubt," he said. He said few would agree the president "ought to have almost enough power to defend the country."

William P. Barr, who served under George H.W. Bush, said critics should remember whatever happened in the wake of 9/11 was designed to combat "a foreign enemy who is operating outside the rules of war."

Barr recalled that at one point during World War II, President Franklin D. Roosevelt wrote a letter asserting extraordinary national security powers. Barr said it was probably drafted by Attorney General Robert H. Jackson.

"By today's standards they'd both be wearing jumpsuits as criminals," Barr joked, drawing a laugh from the audience.

Associated Press Writer Nedra Pickler contributed to this report from Washington.

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EX-AGs WEIGH JUSTICE AND POLITICS

ABA Journal
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Body

SIX FORMER U.S. ATTORNEYS GENERAL, WHO SERVED UNDER FOUR different presidents in the past 30 years, expressed serious concerns about proposed investigations into interrogation techniques employed--but now abandoned--in the war against terrorism.

What kept a standing-room audience rapt at the 2009 ABA Annual Meeting in Chicago, however, were the tales of managing 93 independent-minded U.S. attorneys posted throughout the country while coping with the turf battles inevitable in a powerful White House.

John Ashcroft, who was attorney general under President George W. Bush, said it was important to remember that "the president isn't above the law, but he is above you."

At the other end of the spectrum. William P. Barr, who also served in the first Bush administration, warned against a "cult of individual line prosecutors" whose enforcement actions must be managed by the attorney general.

ADVICE FOR THE NEW GUY

PROMPTED BY QUESTIONS FROM LITIGATION SECTION CHAIR ROBERT L. Rothman of Atlanta, the former AGs had plenty to say about issues already bearing down on the new attorney general, Eric H. Holder Jr.

They were generally dubious about a possible Justice Department investigation into tactics used during the second Bush administration to interrogate suspected terrorists.

Since there is little likelihood that any prosecutions will result, "the better thing is to let the record stand where it stands. The facts already are pretty well-known," said Benjamin R. Civiletti, attorney general under President Jimmy Carter.

Edwin Meese III, who served under Reagan, said that investigating actions by a previous administration would raise serious questions about political motivations. Moreover, Meese said, prosecuting lawyers for their opinions "is a very dangerous precedent."

EX-AGs WEIGH JUSTICE AND POLITICS

The former attorneys general generally agreed that the firing of several U.S. attorneys by the second President Bush in 2006 was a politically ill-conceived action.

While the firings were within the president's power, a lot of actions that are not illegal may seem dumb when done for the wrong reasons, said Meese, "and it seems like this was one of those dumb things."

But they also emphasized the need for the attorney general to effectively supervise subordinates, especially U.S. attorneys tempted to follow their own agendas. They pointed to the prosecution of former Sen. Ted Stevens of Alaska, which was recently ended by Holder.

"If someone is making political prosecutions, I hope you will interfere," Ashcroft said. "Sometimes the best decision of all is the decision not to prosecute."

Michael B. Mukasey, who was attorney general at the end of the second Bush's term, downplayed rivalries between the attorney general's office and the office of legal counsel in the White House, which is technically part of the Justice Department.

"It's a very talented group," he said, "and they stop a whole lot of bad ideas."

For more

Photos of the entire ABA meeting

ABAJournal.com/magazine

Load Date: October 1, 2009

The NLJ's ABA Annual Meeting Blog

07/31/2009

Attorneys general agree: White House should keep some distance

Six former attorneys general speaking at an ABA panel this morning tended to agree that the communication between the Justice Department and the White House should be limited to a finite group of people to avoid inappropriate contact.

The growth of the White House counsel's office has contributed to recent problems, said former AG Edwin Meese III, who served under President Ronald Reagan. Some other former AGs agreed.

"Trouble happens when you're trying to run too much from the White House and the White House Counsel's Office," said William Barr, who led the Justice Department under President George H.W. Bush.


Michael Mukasey, who served under President George W. Bush, said that when he came in as AG at the end of 2007, he had to reinstitute rules as to who could speak to the White House and who could not.

Inappropriate meddling by lower-level Justice Department and White House employees earlier in the Bush II administration was pinpointed as a major factor in the questionable firings of U.S. attorneys. Some "dumb things" were done there, said Meese.

In addition to Meese, Barr and Mukasey, the panel included John Ashcroft from the Bush II years, Benjamin Civiletti from the Carter years, and Dick Thornburgh, who served under Reagan and Bush I.

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rely on local phone lines, and more recently the cable network, as their connection to the backbone.

One of the ways Verizon makes money is to sell “Internet access service” to customers. This is the wherewithal to put traffic into and get it off this Internet delivery system. Until recently, Verizon performed this service by carrying the traffic to and from the home on the local copper telephone wires.

Internet users can be thought of as falling into **two categories**. Upstream are the businesses that are putting content or applications out through the Internet for the use of consumer end users. Amazon, iTunes Store, or YouTube are examples of these kinds of sites.

All the way downstream is the consumer, sometimes referred to as the “end user.” This is you and me, typically buying things, researching, browsing, sending e-mail, etc.

There are **two important things** to understand about how the Internet has operated.

First, until recently, **the chokepoint** – the main constraint on the whole system – was the speed and capacity of the consumer’s access – the wire into the home; the so-called “last mile.” Access was available only over the telephone lines. The speed of dial up access is 56 kbps. We can all remember how long it took for pages to load up at those speeds.

Obviously, this chokepoint put a huge constraint on what kinds of applications and content could be delivered using the Internet. Dial up could not handle steaming video, large file downloads, and interactive gaming, for example.

The **second thing** to understand about the public Internet is that it has been specifically designed with “rules of the road” that inherently limit the kinds of applications and content that can be transmitted through it.

One of the rules is that “bits are bits” – all bits are equal, and no bit can be prioritized over any other bit. So, if you are interested in delivering an interactive application that can tolerate no perceptible latency period, say a faced paced interactive gaming application – sorry, your bits have to wait there turn behind these e-mail bits.

The other limiting “rule of the road” is that the public Internet provides only for “best efforts” delivery. The network operators who carry the traffic simply agree to use “best efforts” to deliver the bits they handle along the route. The quality and reliability of delivery is very good on the Internet, but inevitably bits are misdirected and lost. If you are interested in transmitting content that requires extremely high reliability, and quality of service guarantees, you do not rely on the public Internet as your delivery system.

Given these limitations, it should **not surprise** you that **major corporations** conduct much of their important data communications outside of the public Internet system. When they have important applications, data, or communications to be shared throughout all their field offices or with their business customers or partners, they frequently go to companies like Verizon to build and manage networks that prioritize traffic in a way optimal for them, with guaranteed quality, reliability and security.

Some of this data may go on dedicated lines; some may go on shared transport lines that are also carrying, for example, public Internet traffic. But in the latter case, it is carried within a VPN, according to its own rules, not the Internet’s. It is sort of like using a bonded direct courier instead of dropping something in the mail.

From the consumer’s standpoint, however, until recently, the Internet’s rules of the road did not really constrain what could be made available to the home. The operative constraint was the tiny last-mile pipe, with a speed of 54 kbps. As long as that was the case, “bits are bits” and “best efforts” were perfectly adequate for anything. But that has now changed.

2. The Broadband Revolution

Over the past 10 years, the policy of Congress and the FCC has been to **encourage investment and innovation on networks by deregulating them**. This has been wildly successful.

We have witnessed over the past decade one of the largest infrastructure deployments in history. It is the building of new communications networks with robust broadband pipes into the home – the broadband revolution.

It is no accident that the broadband revolution started on the cable system. Already lightly regulated, cable was further relieved of regulation by the Telecom Act of 1996.

That enabled cable companies to gain Wall Street backing for investing over \$100 billion to convert their one-way broadcast network into two-way broadband pipes.

For a while cable had the field to itself precisely because phone companies were subject to a regulatory regime that imposed sharing obligations and price regulation on their networks.

Lifting those regulations unleashed the phone companies' broadband investments. DSL deployment has ramped up sharply in the last three years to catch up to cable.

The DSL challenge has lead in turn to the cable companies investing more in their networks to offer faster speeds.

Now phone companies have moved to the next generation. Verizon is spending **\$18 billion** to deploy a fiber-to-the-premises network (**FiOS**) to 18 million customers by the end of 2010. FiOS is allowing offers over 10 Mbps, with ensuing versions offering up to 100 Mbps.

AT&T is spending \$4.6 billion over three years to deploy a fiber-to-the-node network to 19 million homes.

Meanwhile, wireless companies are deploying 3G broadband technology onto their networks. Verizon has so far spent \$3 billion to reach 200

million people. Now with a simple wireless card, laptops get internet access at speeds up to 2 Mbps.

Fixed wireless has now become a viable broadband alternative. WiMAX reportedly will allow speeds up to 155 Mbps and a range of up to 30 miles.

Clearwire-Intel is offering WiMAX in 30 cities and expanding.
TowerStream is offering WiMAX in 6 major metropolitan areas.

In August, Sprint announced that by the end of 2008 it will spend \$3 billion to build a nationwide WiMAX network to provide customers access at 2-4 Mbps.

Several hundred U.S. municipalities are in the process of installing city-wide Wi-Fi networks. Already 65 cities have such networks.

Three satellite companies are investing substantially to continue to improve their nationwide broadband coverage. They offer access at speeds comparable to the most widely purchased DSL offering.

Recent technology advances have now made Broadband-over-power-lines (BPL) a feasible access alternative. Google-backed Current Technology is rolling out BPL in Texas and Ohio. Current speeds are up to 3Mbps, with next generation equipment offering speeds as high as 100 Mbps. Other power companies have started deployment.

Cumulatively this is a massive program of private investment and innovation.

Verizon alone, over the last two years, has become the number one capital spender in the country.

And there is no more cutting-edge technology in the country today. The San Jose crowd likes to preen that they are high tech, and that we are guys who wear hard hats and get dirt under our finger nails digging up streets. But the science and engineering that is being developed for these new networks – networks that can carry mountains of video, data and voice – all with the reliability of the old phone system – is truly leading edge, whiz bang stuff.

- Flexible fiber
- GPON -600 → 2.4 Gbs
- Green light ^{4x} laser

Unlike most historic infrastructure projects of this scale, when we make these huge investments, we are not being granted exclusive franchises, insulating them from competition and offering a relatively safe return. They are rolling out their networks in the teeth of fierce competition and extraordinary technological risk.

When Verizon puts its fiber down a street it costs us \$850 for every home passed. It then costs us about the same amount to connect each home. We spend the money, but we don't know whether customers are going to buy broadband at all, whether they are going to buy from a competitor.

Companies make these large and risky investments for the opportunity to earn a return commensurate with the risk. And they do it only if they have the freedom to innovate, differentiate, and make commercially sensible decisions needed to compete and win in the market.

3. The Net Neutrality Proponents

Now arrives on the scene a well-funded campaign calling for the pervasive regulation of broadband. It marches under the banner of "Net Neutrality."

We detected this campaign when it was still incubating. We saw Google quietly going about, spreading around ungodly sums of money, enlisting various academics, consultants and lobbyists. Then the campaign erupted, driven by a coalition of Internet giants, like Google, Yahoo, and Amazon.

At first blush, this is a little odd. It used to be that regulation of Internet was anathema to the dot-com community. "Hands off the Internet" was the mantra.

Now we see a loud segment of this community proposing a regulatory regime for the Internet.

One would think that this kind of call for regulation was in response to some harm, practice or abuse that had actually arisen in the marketplace.

It is not. It is based solely on musings about a “parade of horrors” they say could occur in the future. As one of my friends at Comcast says, it is a parade down Hypothetical Boulevard.

Now there is no consistent definition of net neutrality; the arguments and proposals seem to constantly shift.

But the **core element** of the net neutrality school -- the central premise of the whole theory -- is that **phone and cable companies have a chokehold** on the last mile of internet access that is really a **duopoly**.

They claim that cable and phone companies can and will use this alleged chokehold to limit the ability of some upstream content and application providers to reach end users, and thus skew competition by favoring some and disfavoring others.

This is usually cast as a claim that we are going to **block or interfere with content from reaching people over the public Internet**. Much editorial writing and congressional testimony has focused on the specter of customers being blocked from reaching sites.

But that is not what the debate is really about.

We have made clear that, when consumers buy Internet access capacity from us, they should be able to reach any lawful Web site they want to get to with that capacity, and we do not, and will not, block, degrade, or interfere with the consumer’s access to any Web site.

So what is the argument really about?

Remember that the public Internet – with all its rules of the road – can move traffic at, say, around 1.5 Mbps. That is plenty for most things. But now if you are a FiOS customer, for example, you will be sitting there with a massive pipe capable of up to 100 Mbps.

Verizon will have no problem providing FiOS customers sufficient capacity to access the public Internet.

The point is that Verizon will now have in place a facility that can do more.

Broadband pipes make possible new kinds of priority delivery services, QoS capabilities, and functionalities that – by definition – cannot be accommodated on the public Internet.

The question is whether we will be able to build the infrastructure and develop the capabilities that will allow customers to receive these new kinds of services.

In a sense, high-end capabilities that used to be available only to major corporation's private networks can now be brought to small businesses and consumers.

Let me give you an **example**: say that **Johns Hopkins Hospital** wanted to develop and deploy a home monitoring network by which it could monitor and provide certain kinds of health services remotely to patient's homes. This would require very high degrees of quality of service, security and reliability from end-to-end. Verizon and Johns Hopkins might decide to partner to build the infrastructure necessary to offer this service over the FiOS broadband network.

Orthodox net neutrality advocates say we should not be able to do this. They say that, if network owners want to deploy new enhanced services, we can only charge the consumer end users. We should not be allowed to charge any upstream provider – in my example, Johns Hopkins -- for any advanced network service. Even if Johns Hopkins wants to contribute to help deployment of this new service, it should not be allowed to.

Other net neutrality advocates do not go quite this far. They say that, if a network owner enters into a commercial deal to provide enhanced service to a content or applications provider, then it has to provide the same thing to all comers on precisely the same terms.

Such non-discrimination models *require*, as they always have, intense regulatory regimes overseeing the physical and economic terms of all arrangements, including the regulatory determination of costs and rates.

But whatever the prescription – whether it is a mandate that investment in advanced networks can only be recovered from end users; or a requirement that any new network infrastructure has to be shared with everyone at regulated rates – the result is the same. As a number of Wall Street analysts have observed, such regulation would “**slam the door**” on network investment and innovation.

4. There Is No Basis for Broadband Regulation

Obviously, in our system, there is a presumption against regulation. The bias is to allow the market a chance to work.

The burden is on those seeking regulation to show that:

--there is in fact a failure in the market that is causing harm to competition and that the market itself cannot correct it;

--and further that the regulation they want to impose will actually improve things, not make them worse.

When arguments for regulating broadband are subject to real scrutiny, two things become clear:

(1) the harm they are supposedly addressing does not exist; and

(2) even if you thought the dangers did exist, the regulations go in 180 degrees the wrong direction.

A.

In the real world marketplace, the **bottleneck** power cited as justifying regulation **simply does not exist.**

No phone company or cable company has the market power to injure competition among content and applications providers.

In the first place, the assertion that this market is a duopoly is a gross misrepresentation.

The broadband market is fiercely competitive today and is clearly on the trajectory to an ever-more competitive market.

Consumers have multiple choices of access providers and choices are rapidly expanding. 81% of zip codes offer 3 or more broadband choices. 53% have 5 or more choices. 21% have 10 or more choices.

Broadband prices clearly do not reflect market power; on the contrary they demonstrate fierce competition:

Prices have been falling.

Speeds have increased.

DSL average prices have fallen by nearly 30% in three years, and by nearly 50% for a given speed.

Cable modem prices have decreased 70% in three years on a per Mbps basis.

More importantly, regulation advocates are engaged in a huge **sleight of hand** as to what the relevant market is. The question is not the range of choices an end user has in a particular locality – that is the power that the last mile owner has over a local end user.

The broadband regulation argument hinges on the power that the last mile owner can exert over the upstream content market – that is not just a national market; it is an international one.

Google can reach everybody who uses the Internet in the US and the world. Verizon is only providing consumer broadband access in the fraction of the country where it has local phone facilities.

Whatever Verizon's share today in a particular city may be; it only has a 12% share nationally. This represents probably less than 5 percent globally.

So let's get serious. If Verizon blocked Google from reaching Verizon's customers, **who would win that battle?**

Verizon would be seriously hurt in its competition with other access providers, who would be touting the fact that their access service allowed customers to reach all sites.

And would Verizon really have bottleneck leverage over Google's ability to reach end users, when the best Verizon could do is shut off a couple of percent?

The bottom line is that, due to the **fractured structure of the industry**, no last mile provider has any power over the market for distribution of content and applications.

Nor do these providers have the **incentive** to limit their end user's experience on the public Internet. On the contrary, the functionality we are selling is precisely the capacity to reach all lawful content and applications on this so-called "commons."

Broadband providers have every incentive to maximize the content and applications available to our customers through their connections to the public Internet -- doing so maximizes the value of the provider's network.

Given this lack of incentive as well as the lack of power, it should not be surprising, that net neutrality advocates cannot point to any of these harms ever materializing.

The one paltry poster-child they have scrounged up really demonstrates the vacuousness of their claim. In 2005 a small rural phone company with 190,000 lines, named Madison River, blocked incoming Vonage

VOIP calls on the grounds that Vonage was refusing to pay the per-call access charges that other long-distance companies pay. But this was not an instance of leveraging power –it was a dispute over the legal status of such calls – one pending in the industry at the time, which still has not been finally determined. In any event, the FCC fined the company, and calls were let through.

In short, the broadband market is characterized by multiple competitors, falling prices, increasing transmission speeds, new investments, and vibrant innovation – all characteristics of a marketplace that is NOT in need of intervention by regulators.

B.

Even if you thought that bottleneck power was a potential problem and -- you wanted to impose regulation in advance as a prophylactic measure, the proposals of net neutrality advocates are still unjustified and misdirected.

A fundamental problem with the proposals by net neutrality advocates, as Professor Chris Yoo has pointed out, is that they are **addressed to the wrong policy problem.**

The premise of net neutrality proposals is that the greatest policy imperative must be to protect and promote competition at the content and application level. But is already a highly competitive sector and likely to remain so.

If, however – as the proponents of regulation allege -- the problem is concentration or scarcity at the network level, then the policy imperative should be to broaden the availability of network capacity and capabilities by promoting investment in multiple, diverse networks.
If the problem is too few networks, the solution is more networks.

Even if your ultimate concern is promoting content and application competition, then it is still imperative that you give priority, in the first instance, to policies geared toward encouraging deployment of diverse networks. No one writes applications if there are no networks to support them.

It is the creation of network capacity and functionality that enables and gives rise to the development of new kinds of content and applications.

Each time a network owner invests and innovates to create new network capacity and functionality, he is enabling a whole new spectrum of content and applications, where none had existed before.

Multiplayer, interactive gaming is a good example: To deliver true real-time interactivity, the next-generation of gaming programs will require extremely high prioritization and quality of service delivery – with almost no detectible latency. But the public internet is designed not to provide this kind of delivery. If Verizon and its competitors build such infrastructure, then a whole new content marketplace will blossom.

The fallacy of the regulation approach is that it posits that the problem is network scarcity. But instead of addressing that problem, it assumes that enduring network scarcity is a given, and proceeds to proscribe regulatory regime that focuses on carving up network resources to all comers equally – either for free or at regulate rates.

The problem, of course, is that these very regulations deter the building of new networks by severely constraining the ability of network owners to innovate, differentiate, and earn an adequate return. This ends up locking scarcity in and ultimately profoundly stunting the market for content and applications.

[In short, net neutrality advocates see only one static pie, and they are propounding rules for carving up that pie. Everyone gets a free and equal slice. The problem with that approach is that you ensure you end up with the one pie. No one will bake another.

But we are not relegated to one pie. We are in the process of creating more and different pies. The issue here is not how to carve up one fixed a static pie, but how to ensure that we will continue to produce more pies – and with them, new universes of content and applications that otherwise would not exist.]

5. Promoting Network Diversity

When we talk about the need to promote network diversity, we are in no way suggesting that the public Internet is going to be superceded or replaced.

On the contrary, it is going to remain the primary delivery vehicle for most consumer content and applications.

When we invest in deploying huge broadband pipes into consumers' homes, it enhances the Internet as a delivery vehicle.

But we must also understand that, as I have described, the public Internet has built-in limitations on the kinds of applications that can be delivered over it.

When we invest in huge fiber pipes into the consumers' homes, it not only enhances the Internet experience, but it also creates a new opportunity to deliver to end users innovative applications that the Internet does not accommodate.

Let me crystallize this by again using the gaming example.

True real-time gaming can only go so far on the public Internet.

To fulfill its promise will ultimately require networks that can assure levels of performance and prioritization that cannot be offered over the Internet.

But how does this infrastructure get built?

A gaming company and a network provider can be natural allies. They can partner in sharing the risk and cost of making a new market. It would be quite natural for a gaming company to be willing to cover some of the costs required to build an advanced delivery system to help make a market in this high-end gaming, and also to be willing to subsidize those connections for customers to speed adoption of their games.

One can think of a host of examples where content providers may be willing to cover some of the expenses required for advanced delivery to help make a market in their new services. **There is no reason why such arrangements should be prohibited.**

And yet that is what most net neutrality advocates contend. One of their dogmas is that network providers should not be able to charge content and applications providers for new and enhanced delivery services, but must fund advanced infrastructure solely through increased access charges to end users.

When you ask why, you usually hear jabber that the Internet is a “pull” market, not a “push” market. The notion is that websites do not push their content to end users, rather the end user goes to the site and pulls down its content, and therefore the end user should pay for delivery. A door-to-door salesman pushes, and therefore should pay the bus fare to your house. But when you go to the store, you are pulling and should pay the bus fare back and forth.

Of course, this is all nonsense. Advanced networks make new markets. These, like the Internet, are two-sided markets. There are times when customers want to pay to reach businesses and times when businesses want to pay to reach customers.

Think about the Yellow Pages. Consumers may be willing to call stores to order things. But the stores frequently set up 800 numbers whereby they underwrite the costs of customers reaching them.

Take the market for express delivery—FedEx and UPS. There are times when consumers are willing to pay for faster delivery and the merchant is indifferent—for example, when I need a book from Amazon overnight. Conversely, there are times when a business is willing to pay for fast delivery and the recipient is indifferent—for example, when a law firm sends a brief to a court.

The idea that only consumers should be able to pay for delivery forecloses large avenues of efficient activity and eliminates a key revenue source for network providers to recover their investments.

Mandating that all costs be loaded on the consumer will strangle the development of the networks.

That is because there is a real chicken-and-egg problem in the broadband market.

On the one hand, no one is going to develop applications if there is no network that can support it.

On the other hand, it is a challenge to build and get people to pay for a network before there are enough applications to justify its value to the end user.

The broadband revolution has been triggered because companies like Verizon are rolling out networks before there are sufficient applications to make its full value readily apparent to the end user. Thus, the network builders are creating a new market at a time when one side of the market – the end users -- is not generally going to appreciate the full value of the offer.

Look around you. This is what is happening today. As we roll out wireless G3 networks and fiber network to the homes, analysts are asking, “Where are the applications that are going to drive penetration?”

We had to pay YouTube to get their content on our cell phones. So the dynamic is that we are trying to attract all the content we can to demonstrate the value of the network to the consumer.

So if you say networks cannot be funded until end users are willing to bankroll them, you have created a Catch 22, and the networks will languish.

Some in the net neutrality camp concede that network providers should be free to charge upstream providers for new services, but seek to impose a **nondiscrimination requirement**—if the network provider provides a new service to one upstream provider, it must make that service available to all other upstream providers on exactly the same terms.

Such a requirement is **unnecessary and harmful**.

Network providers have strong incentives to maximize the diversity of content and applications available over their networks.

Once you acknowledge that network providers can negotiate a commercial arrangement with one upstream provider, what reason is there not to **allow the same market forces to work with the second and third providers?**

The problem with a non-discrimination requirement is the **certainty of regulatory failure**. Enforcing a non-discrimination obligation would require regulators to determine which providers are similarly situated to one another. The task of accounting for all the puts and takes involved in complex commercial deals would inevitably result in regulatory caprice. Inevitably, a non-discrimination requirement would devolve into a regime of regulated tariffed rates.

Given the mantra of regulation proponents that the broadband market is not competitive, the likely aim of this regulatory regime would be not just to ensure equal treatment, but to push down rates levels that regulators believe would prevail in a “perfectly competitive market.” This is a replay of the failed sharing regime tried after the 1996 Act. The history of telecommunications regulation confirms that regulated rates systematically under-compensate network providers. This problem would be even more acute in a competitive market like broadband. Simply put, firms don’t make risky and expensive investments in a competitive market to earn regulated rates.

In short, the regulatory regime being urged would, as analysts have said, slam the door shut on network investment by artificially constraining the opportunity to recoup investment and depriving network owners of the freedom to compete.

As Scott McNealy of Sun Microsystems said last May, “...anything that blows up the movement forward of the network takes out not only the network service providers but also the content creators.” So for now, “let’s just make sure we don’t screw up investment in the network.”

6. Effort to Protect Current Business Models

So what is really going on here? Why are large companies like Google, Amazon and Yahoo advocating Internet regulation?

I think what is really happening here is that very large companies who are very successful under current conditions, and have come to dominate their segments, are attempting to entrench their particular business models.

Innovation and expansion by network providers can be disruptive to entrenched business models. For example, AOL and other ISPs were successful in the narrowband dial-up world, but they have lost ground with the evolution of broadband.

Innovative networks providers can create applications within the network that can compete with applications that come from outside the network. A network provider could offer network-based security applications to compete with the security you can get through AOL or Google. This is a good thing.

By creating new capabilities, a network provider can also help an emerging content provider distinguish itself with a new feature that will help it compete with a dominant content provider. This fosters competition at the content level, and that is a good thing.

By innovation, network providers can empower wholly new application markets that can become strong virtual networks, competing for advertising dollars.

The Internet did not get the way it is today by having everyone follow one officially prescribed business model. Companies have experimented with all kinds of business models and arrangements. There has been a lot of trial and error and evolution.

Firms should remain free to experiment with different arrangements that create efficiencies in the market.

- never dealt w
before
- dev. innovation

We should not try to pass laws dictating how future evolution should occur – locking in some business models; and categorically prohibiting others.

Thinking about Google helps bring this into focus.

Google is an Internet behemoth, with about twice the market cap of Verizon.

It has built its business around a superb search engine and is steadily increasing its domination of that market.

While we see lower concentration and falling prices in the broadband market, we actually see sharply increasing concentration and rising ad prices in the search market.

About 75% of US Internet consumers regularly use Google. About twice as many searches are done on Google as on its next largest rival, Yahoo. Analysts estimate that Google will continue to widen its lead.

Drawn initially by its search function, those who use Google become part of its “virtual network.” Google reinforces that virtual network by offering an expanding array of other applications – Google Video, Google News, Google Talk, Google Book Search.

It gives away these applications for free. It makes money by charging upstream businesses to reach its virtual network of eyeballs --- through advertising.

Interestingly, Google was unhappy with the public Internet’s delivery limitations. So it has invested substantial sums in building its own private network to carry its traffic to caches around the edge of the Internet, largely by-passing the public Internet.

This should put an end to the notion that upstream providers should not pay for better access to consumers. Google is paying for a better network pathway to end users.

Now let's look at little guy in the garage who has developed a great new search engine. This is the guy that Google says they are worried about. What is the greater danger for this content provider? Verizon's or Google's business model?

How do you compete with Google? How does the rival search engine match Google's network infrastructure?

Maybe Verizon is a potential ally. You could come to a company like Verizon to pay for faster delivery and enhanced quality of service. That is efficient. It increases competition at the network level. And it increases competition at the content and applications level.

When you look at its growing power on the Internet, the fact that Google is leading the charge to regulate network companies is quite ironic.

Google's argument for regulating companies like Verizon is that we are a gateway or bottleneck and might use our power to skew competition among content providers on the Internet.

Well let's think about who is a gateway and who could really skew competition on the Internet.

When you are dealing with the mind-boggling volume of information and sources on available on the Internet, **no one plays more of a gateway role** than the site you go to for help in navigating and searching through that morass.

Google is the dominant site people go to in order to be directed to content on the Internet. 75% of American Internet users use Google. It is gateway to content; it is a screen.

Is this gateway neutral? Can Google favor some content and disfavor other content? Can it steer people toward content of favored advertisers, and away from those who do not pay it for advertising?

Well, the founders of Google – Page and Brin – wrote their graduate thesis on search engines. And this is what they had to say back then:

“[W]e expect that advertising funded search engines will be inherently biased towards the advertisers and away from the needs of consumers. Since it is very difficult even for experts to evaluate search engines, search engines bias is particularly insidious.... A search engine could add a small factor to search results from ‘friendly’ companies, and subtract a factor from the results from competitors. This type of bias is very difficult to detect but could still have a significant effect on the market. We believe that the issue of advertising causes enough mixed incentives that it is crucial to have a competitive search engine that is transparent and in the academic realm.”

My point is not that Google is bias. I am not saying here that it is. I do not know. People have raised questions. Are the bots that Google uses to index the websites of its advertisers exactly the same as those used for competitors? Does Google give technical support to its advertisers on how to get high rankings that is not as a practical matter available to others?

The point is that if you are interested in prophylactic measures, you should be more concerned about the Google gateway than anything else.

It has huge and growing market power.

It has an incentive to discriminate.

Any bias is undetectable and insidious.

And it would have substantial impact on the content market.

Conclusion

Ultimately, coming up with ex ante rules is a frivolous exercise. The right approach is to let the market work and allow network providers to negotiate commercial arrangements with content and application providers. There is every reason to believe that these arrangements will benefit consumers and promote investment and innovation in both networks and content.

If a problem arises, the rules that are already in place are sufficient. The FCC has already said it has broad authority over this market and stands ready to address any problems. There are also well developed doctrines in antitrust law that target anti-competitive exclusive arrangements.

A hands-off policy that allows the market to work and facilitates the expansion and differentiation of networks will create a powerful force for innovation and competition in content and applications. That is the key policy imperative of the day, and it should not be obscured by the efforts of companies seeking to insulate themselves from change.

Fordham News

| Former Attorney General Opposes Net Neutrality Regulation of Broadband Services

BY FORDHAM NEWS ON FEBRUARY 16, 2007

INSIDE FORDHAM



*(Left to right) William M. Treanor, J.D., dean of Fordham Law School; former Attorney General William Barr, executive vice president for Verizon; and Joel R. Reidenberg, J.D., Ph.D., professor of law and founding director of the Fordham Center on Law and Information Policy.
Photo by Chris Taggart*

Net neutrality legislation to regulate broadband Internet services will stifle investment and innovation that over the past decade has provided Americans unprecedented speed and access to the Internet, said former U.S. Attorney General William Barr, executive vice president and general counsel for Verizon, in a speech at Fordham Law School on Jan. 16.

Delivering the Fordham Center on Law and Information Policy's inaugural Law and Information Society Lecture, Barr said that Verizon is spending \$18 billion to install fiber optic lines that will carry Internet traffic at speeds unimaginable only a few years ago. He warned that federal regulations barring telephone and cable companies from establishing a tiered system, in which companies could pay a fee to providers to travel on their network's fastest connections or to use enhanced services, would bring such investments to a screeching halt.

"We didn't build these networks, we cannot put this money at risk, Wall Street would not allow us to spend this money, for regulated returns and regulatory control," said Barr, who served as attorney general from 1991 to 1993. "This is a competitive market. This is not what regulators are used to working with: regulated markets where competition is limited. We need to allow the marketplace to work."

The idea of tolls and a tiered system has prompted concerns among Internet titans like Google and Amazon that access providers could become the Web's *de factogatekeepers*, blocking or limiting access to certain content. Barr's speech comes on the heels of the reintroduction of a bill in the U.S. Senate, the Internet Freedom Preservation Act

of 2007, that would limit the ability of telecommunications companies to impose fees. An identical bill died in committee last year on an 11-11 vote.

The movement to stop telecommunications companies from establishing the fee system has coalesced under the banner of net neutrality. Net neutrality refers to the fact that since the Web's inception all traffic has been treated equally, or neutrally, as it travels on the Internet's public highway system, the so-called backbone.

Barr told the audience that for a long time most people could only access the Internet through telephone lines with speeds capped at 56 kilobytes per second. However, cable and telephone companies have invested vast sums and pushed transmission speeds to a current average of 1.5 megabytes per second. This, Barr said, is the Internet's limiting feature, not the plans by telecommunications companies to provide high speeds and enhanced services. Verizon's fiber optic line, he said, will reach speeds of up to 100 megabytes per second when it's fully deployed in 2010.

In a 100-megabit environment, Barr said there will be more than enough capacity to provide home customers access to anywhere they want to go on the Internet. However, it will also be possible for organizations, like hospitals, to contract with access providers to build powerful networks with immense capacity that until now have been available only to large corporations, he said.

Federal regulation would close off, he said, any opportunity for hospitals and small- to medium-sized businesses to build those powerful networks, even if they wanted to spend the money.

Barr's speech was the first event in the Law & Information Society Lecture series sponsored by the Fordham Center on Law and Information Policy. The center was founded at the Law School to make significant contributions to the development of law and policy for the information economy. Joel R. Reidenberg, J.D., Ph.D., professor of law and the center's founding director, said that the annual lecture will explore issues related to the impact of law and technology on society.

By Victor M. Inzunza

First Hispanic in U.S. Cabinet to speak at Dominican College

The Journal News (Westchester County, New York)

April 15, 2007 Sunday, GWPR Edition

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Section: NEWS; Pg. 5A

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Byline: Alice Gomstyn

Body

A former U.S. secretary of education and the first Hispanic to serve in a U.S. Cabinet will speak Wednesday at Dominican College in Orangeburg.

Lauro F. Cavazos Jr., who served as secretary of education during the Reagan and Bush administrations from 1988 to 1990, is part of this year's Dominican College President's Lecture Series.

Cavazos, the former president of Texas Tech University, will talk about his life and his ascent through higher education and government.

"We're very excited about having Dr. Cavazos come on campus to share his incredible story with our students, faculty and staff as well as community members," said Dean of Student Life John Prescott, who organized the lecture series. "He's had just a wonderful experience."

Cavazos, a Texas native, holds bachelor's and master's degrees in zoology from Texas Tech University and a doctoral degree in physiology from Iowa State University.

He taught at the Medical College of Virginia and at Tufts University School of Medicine in Boston, where he served as a dean from 1975 to 1980.

He became president of Texas Tech in 1980.

After serving as education secretary, Cavazos returned to Tufts, where he is a professor of public health and family medicine.

This year's President's Lecture Series has included presentations by William P. Barr, the U.S. Attorney General under the first President George Bush, and Peter G. Peterson, the Secretary of Commerce under President Nixon.

Alexis Herman, who served as secretary of labor under President Clinton, also was scheduled to speak but cancelled due to an injury. Prescott said the college was working to reschedule her visit.

Cavazos' presentation will begin at 7:30 p.m. in the Lawrence Room of Rosary Hall. The event is free and open to the public.

{dcidc}Reach Alice Gomstyn at 845-578-2420 or agomstyn@lohud.com.

{If you go

{What: Lecture by former Secretary of Education Lauro F. Cavazos Jr.

First Hispanic in U.S. Cabinet to speak at Dominican College

{When: 7:30 p.m. Wednesday

{Where: Lawrence Room, Rosary Hall at Dominican College, 470 Western Highway, Orangeburg

{Admission: Free, open to the public

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Section: TODAY'S NEWS

Battle over Facts Marks Renewed Net Neutrality Debate

Experts debated whether the net neutrality debate will be resolved through technological or regulatory changes at a Thurs. panel convened as part of the Federalist Society 2006 National Lawyers Convention. Panelists wielded familiar arguments, some more academic than others, for and against net neutrality legislation. But they debated most fiercely in the realm of technical and statistical facts. Moderator and Federalist Society National Co-Chmn. David McIntosh tried to frame the debate in terms of the "very different committee leadership" coming into Congress, but panelists virtually ignored questions of partisan difference.

Panelists sparred over whether anti-bias regulations limit buildout. Verizon Exec. Pres. William Barr said DSL subscribership gained ground on cable as soon as phone companies stopped having to share lines and sell at predetermined rates. Amazon Vp-Global Policy Paul Misener countered that significantly more lines were built the year before non-discrimination policies were lifted than were built in the years after. "The Brand X decision made it clear that guaranteed access isn't going to be the case anymore," said Christopher Yoo of Vanderbilt U. Law School. Yoo, a student of international telecom/IT regulatory regimes, said the most striking case of regulation stifling deployment was in S. Korea. There, an aggressive small wireless company with a high dropped-call and rate low-cost model targeting students was "regulated out of business" despite providing a legitimate alternative, he said.

Misener held up a sheaf of papers, claiming they were Verizon's preferred telecom legislation, calling it "the 'light touch' regulation they want," then displayed Amazon's 2-3 page version. He said the 2 sides of the debate are "closer than imagined" and that most disagreement comes down to hard facts rather than "sloganeering": (1) Networks only deliver data bits if a customer wants them -- this is unique in the history of media, he said. (2) Service providers get paid on both sides of the transaction, by users and by content providers. (3) Net neutrality isn't too amorphous for Congress to legislate on at all, he said -- especially not compared to the "war on terror" or "health care" -- it simply would bar discrimination based on source or ownership of content. (4) Over 98% of households only have broadband access from a monopoly or duopoly, he said, so arguments about price and competition are misleading.

Barr called some of Misener's arguments "nonsense," claiming a veritable army of alternatives is invading American broadband: Major Bell buildouts costing billions of dollars; similar cable upgrades; multiplying wireless 3G networks; proliferating WiMAX, including Sprint's \$3 billion-plus investment; municipal Wi-Fi; the satellite industry's perpetual upgrades; even investment by Google in BPL in Tex. and Ohio. This movement, "the largest infrastructure deployment in recent history," he said, offers no promise of return on investment, as previous deployments did. Aside from the bad business sense implicit in anti-bias requirements, they would keep new companies from building out and getting into markets where monopolies and duopolies might still exist, Barr said.

Legislation should "allow limited, ex-post, case-by-case antitrust-style regulation," Yoo said, but shouldn't lead directly to a "net neutrality rule." For example, Yoo said, Verizon shouldn't be burdened with anti-discriminatory rules respecting eBay because it doesn't run auctions. But it would be fair for VoIP to get closer scrutiny, since there clearly is an opportunity for market power abuse. -- Ian Martinez

---- **Index References** ----

Company: AMAZON COM INC; GOOGLE INC; SPRINT CORP; VERIZON COMMUNICATIONS INC; EBAY INC

News Subject: (Major Corporations (1MA93); Regulatory Affairs (1RE51))

Industry: (Internet (1IN27); Internet Infrastructure (1IN95); Internet Infrastructure Policy (1IN62); Internet Regulatory (1IN49); Telecom (1TE27); Telecom Carriers & Operators (1TE56); Telecom Industry Highlights (1TE05))

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Volume 72; Issue 23

Market power dominates net neutrality debate.

The question of market power dominated a recent Washington policy debate as broadband network operator and content provider representatives squared off over the issue of net neutrality, which shows no signs of going away even as most observers agree that the legislative vehicle most likely to carry it--HR 5252--is mired in the mud of the lame-duck congressional session.

No telephone company or cable company has sufficient market power in the broadband Internet access market to harm competition in the content and application markets, William Barr, executive vice president and general counsel at Verizon Communications, Inc., told attendees of the Federalist Society's National Lawyers Convention in Washington on Nov. 16.

While the broadband Internet access markets are local, the upstream content market that net neutrality advocates fear will be controlled by the broadband operators is a national market, Mr. Barr said. Verizon has only 12% of the national last-mile market, and no broadband provider has national market power, he added.

The premise of arguments for net neutrality is that public policy should be directed toward increasing competition in the content market, but that market is already competitive, Mr. Barr said. Instead, policy decisions should be geared toward encouraging the deployment of diverse broadband networks, he argued.

"The fallacy of the network regulation approach is that it posits network scarcity," but rather than aim at encouraging new networks, it takes that scarcity as a given and endorses policies that discourage network deployment, Mr. Barr said.

Paul Misener, director-global policy at Amazon.com, said that the broadband Internet access market is not competitive, adding that more than 98% of residential broadband customers get their service from cable TV companies or local telephone companies.

He responded to the frequent argument of net neutrality opponents that "we shouldn't start regulating the Internet" by pointing out that the Internet developed with nondiscrimination rules that applied to dial-up and digital subscriber line customers.

As for suggestions that net neutrality mandates would curtail investment in broadband networks, he said there was a 60% increase in broadband lines in the year before the FCC and Supreme Court ruled in favor of "deregulation"--or information service status--for cable modem and telco broadband Internet access service.

Mr. Misener said that Amazon has no problem with broadband network operators selling upgraded service to content providers through approaches such as private networks or edge service such as that provided by Akamai Technologies, Inc., so long as the delivery of content from other entities isn't degraded.

Mr. Misener took exception to Mr. Barr's suggestion that falling bit-per-second prices for broadband Internet services proves that competition--not duopoly--exists. Mr. Misener argued that falling prices could simply be evidence of firms trying to find the price point that will maximize profits by attracting current dial-up users and new Internet access subscribers.

The third panelist, Vanderbilt University law professor Christopher Yoo, said that Mr. Misener's "alternative is attractive and feasible" but took a position closer to that of Mr. Barr, arguing that there is "a misplaced focus on content and applications" and that "net neutrality would commodify broadband service" so that providers would only compete on price.

He called for network diversity, which would allow network providers to compete on other features such as reliability or security, and a policy of limited, ex-post antitrust-style regulation that would only be applied if there was proof of anticompetitive effects.

--- Index References ---

Company: VERIZON LABORATORIES; AKAMAI TECHNOLOGIES INC; CELLCO PARTNERSHIP; VERIZON COMMUNICATIONS INC; ABEAM CONSULTING KOREA LTD; MCI INC; FEDERAL COMMUNICATIONS COMMISSION; FOMENTO DE CONSTRUCCIONES Y CONTRATAS SA; BEIJING JADE BIRD INFORMATION SYSTEMS CO LTD; VANDERBILT UNIVERSITY

News Subject: (Legal (1LE33); Infrastructure (1IN78); Economics & Trade (1EC26); Technology Law (1TE30))

Industry: (Telecom Regulatory (1TE65); Last Mile Broadband Infrastructure (1LA91); I.T. (1IT96); Networking Markets (1NE31); Cable Regulatory (1CA73); Telecom Network Infrastructure (1TE95); Entertainment (1EN08); Information Management (1IN35); Internet Regulatory (1IN49); Broadband (1BR88); Cable TV (1CA92); Cable Equipment (1CA96); Broadband & Full Service Networks (1BR74); Broadband Services (1BR03); Internet (1IN27); TV Regulatory (1TV84); Internet Infrastructure (1IN95); Telecom (1TE27); Internet Infrastructure Policy (1IN62); I.T. Regulatory (1IT67); Last Mile Services (1LA45); Networking Regulatory (1NE52); Networking (1NE45); Digital Broadcasting (1DI81); Content Management (1CO41); Cable-Based Networking Services (1CA55); TV (1TV19))

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(Online services); (Online services - Market share); (Telecommunications services industry); (Telecommunications services industry - Laws, regulations and rules); (Telecommunications services industry - Industry forecasts); (Telecommunications services industry - Market share); (Communications industry); (Communications industry - Laws, regulations and rules); (Communications industry - Industry forecasts); (Communications industry - Market share)

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Section: TODAY'S NEWS

Federalist Society Panel Spars on Need for Net Neutrality Legislation

Experts debated whether the net neutrality question will be resolved through technological or regulatory changes at a Thurs. panel convened as part of the conservative Federalist Society 2006 National Lawyers Convention. Panelists wielded familiar arguments, some more academic than others, for and against net neutrality legislation. Moderator and Federalist Society National Co-Chmn. David McIntosh tried to frame the debate in terms of the "very different committee leadership" coming into Congress, but panelists in general ignored questions of partisan difference. They instead sparred over whether anti-bias regulations limit buildout. Verizon Exec. Pres. William Barr believed they would, noting that DSL subscribership gained ground on cable only after phone companies stopped having to share lines and sell at predetermined rates. But Amazon Vp-Global Policy Paul Misener countered that significantly more lines were built the year before non-discrimination policies were lifted than were built in the years after.

Misener held up a sheaf of papers, claiming they were Verizon's preferred telecom legislation, calling it "the 'light touch' regulation they want." He then displayed Amazon's 2-3 page version. He said the 2 sides of the debate are "closer than imagined" and that most disagreement comes down to hard facts rather than "sloganeering": (1) Networks deliver data bits only if a customer wants them -- this is unique in the history of media, he said. (2) Service providers get paid on both sides of the transaction, by users and by content providers. (3) Net neutrality isn't too amorphous for Congress to legislate on at all, he said -- especially not compared to the "war on terror" or "health care" -- it simply would bar discrimination based on source or ownership of content. (4) Over 98% of households have broadband access only from a monopoly or duopoly, he said, so arguments about price and competition are misleading.

--- **Index References** ---

Company: VERIZON COMMUNICATIONS INC; VERIZON LABORATORIES; CELLCO PARTNERSHIP

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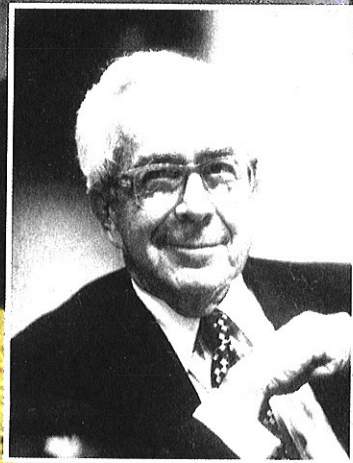
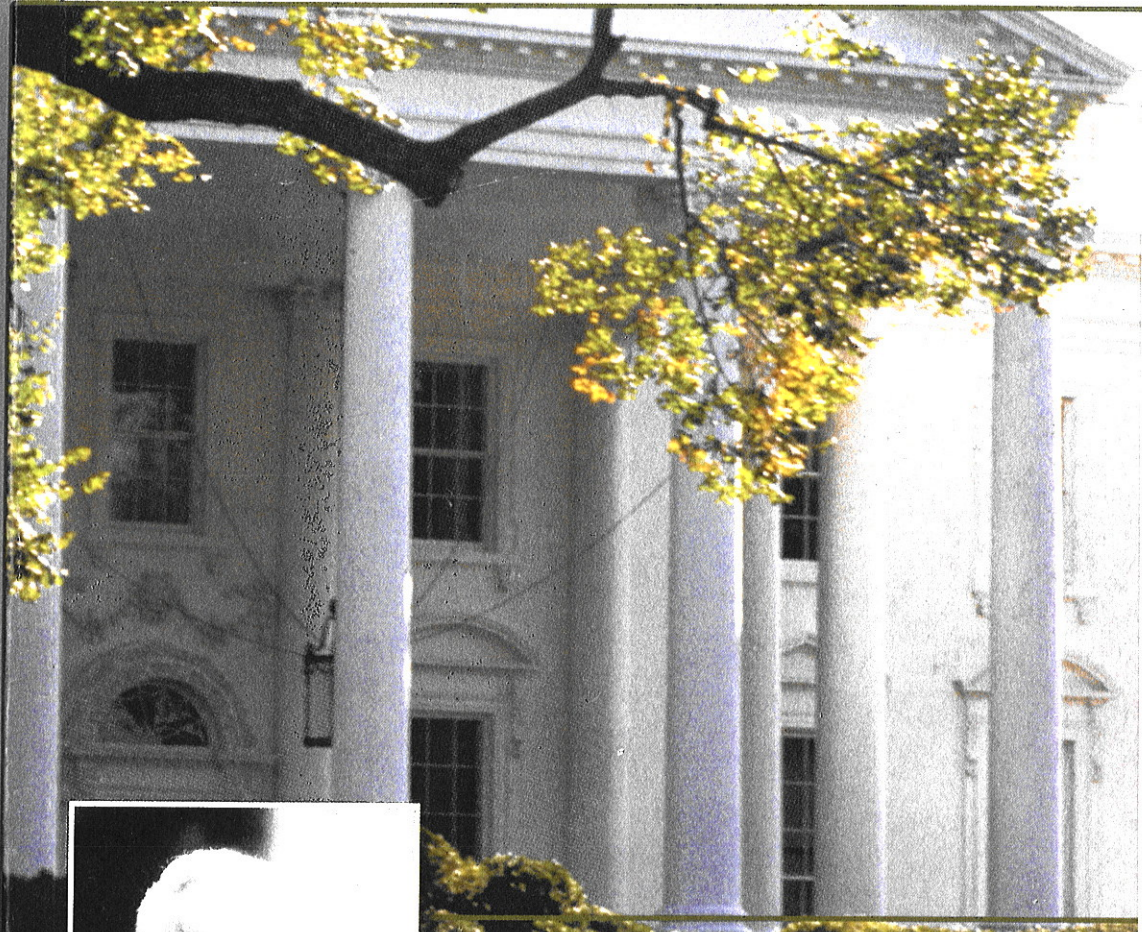
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NewsRoom

LLOYD N. CUTLER AND THE EVOLVING ROLE
OF THE WHITE HOUSE COUNSEL

PROCEEDINGS OF THE LLOYD N. CUTLER CONFERENCE ON THE WHITE HOUSE COUNSEL



PRESENTED BY:
THE MILLER CENTER OF PUBLIC AFFAIRS AND
THE UNIVERSITY OF VIRGINIA SCHOOL OF LAW
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This cooperation and participation by the Department of Justice in oversight of all of the intelligence community came at a time when the intelligence community had suffered great embarrassment. There was oversight by the congressional intelligence committees that was insisted upon and there were intelligence guidelines that were developed, again through the leadership of the Department of Justice, in cooperation with the intelligence agencies. These guidelines were procedures that had to be followed. At that time, the attorney general sat on the National Security Council. Again, the White House counsel participated in many of those meetings of the National Security Council—I understand that times have changed.

My focus here has been on the importance of the relationship between the attorney general and the president. It must be a relationship of trust, confidence, and respect. The president needs an attorney general with the courage to disagree. I don't know whether we will have an attorney general with that kind of close relationship with the president again.

I would counsel a president in the future to go find an attorney general of ability whom he or she already knows, trusts, and respects, and to find a White House counsel who fits the same description.

Nancy Baker: Thank you, John. All right, now we'll pass the microphone to Bill Barr.

William Barr: I think the relationship between the Department of Justice, specifically the attorney general and the White House counsel, is really a specie of the age-old tension between headquarters and the field or between corporate headquarters and an operating division. Every institution has this latent tension in it. The people at headquarters don't think the operating units are part of the team: they're off on their own, they haven't gotten the message, and they have to be watched carefully. And people in the operating units think, These duffers back at headquarters don't understand what we're up against; we have our constituency, so, to serve headquarters, we have to be able to do it our way. That's an age-old tension in any organization.

It's a little bit unique in the relationship with the attorney general, though, because I think the attorney general is a hybrid office. It started off as a headquarters position in 1789, and its function was to provide advice to the president and Cabinet—sort of like in-house general counsel at corporate headquarters—and litigate on behalf of the United States. There wasn't much of that; it was a part-time job. But over the years, it's become more and more an operating entity, because essentially it's performing all the home secretary functions that the British government does. It is the chief prosecutor, and its primary responsibility is to enforce the law. That is part of the president's

duty that the attorney general carries out in the name of the president, enforcement of the law. The paramount interest there, obviously, requires that it be insulated from politics and that the law be applied fairly and without political consideration.

I remember when I went to talk to the president. The president called me in to talk to me about the job, to tell me he was going to offer me the job. I said, "You know, I don't bring you anything politically. [George] Deukmejian and all these other people, Ashcroft, they're governors; they might bring you something here." And he said the best politics at Justice is no politics, so that goes, I think, with the enforcement function. Part of the role of the attorney general is to run that function and insulate it from political considerations.

Does that mean the president can't weigh in? Absolutely not. This is where I'd have to disagree with John. The president is the top prosecutor. Just to give you an idea, the president said to me at one point when we were coming to an end in the Pan Am 103 investigation and preparing to lower the boom. He said, "Bill, would it be appropriate for me to know in advance what you're going to do?" I said, "Absolutely appropriate, Mr. President. In fact, I was planning on coming in and briefing you and the NSA, National Security Council, when we're ready to go, because this is obviously of great international significance and something you should know about."

The president ultimately could decide whom to prosecute and not to prosecute. That is a presidential function you're carrying out. If he doesn't like the way you're doing it or you don't like what he's telling you to do, you resign or he fires you, but it's his function.

By the same token, I've felt an attorney general has to be able to make decisions that could have political ramifications, but doesn't run them by the White House first. If you make a mistake, like any subordinate, you don't run it up the chain when you should, you can be fired for that. If I was cutting a deal to prosecute John Gotti for the third time and wanted to make a deal with Sammy "the Bull" Gravano, who had killed nineteen people—yes, that might look bad and people could put a twist on that, but that's a decision I'm going to make and I'm not going to run that by anybody at the White House.

Beyond that, though, it seems to me there are two other areas, generally speaking. One is policy—and there you are part of the president's team. You're a political official; you're not independent of the president. You're there in the Cabinet to promote the president's policy objectives, to help facilitate those objectives, and to try to help get those carried out within the law. Here, the White House and the president can listen to anyone he wants to. If he wants a counsel in the White House kibitzing on policy, that's fine. In fact,

in practice, that's what happens. The counsel can get involved in different policy areas—and it's good to have different views—because he's looking at it primarily from the center, while you, because you're part of the Cabinet, try to take a broader perspective. You also are one of the players in the interagency process and you come with that perspective.

Now, if the White House counsel wants to start writing a crime bill, he has every prerogative to do that, and the president can listen to him, but that would upset me as attorney general. I wouldn't like that to happen. It didn't happen. Crime bills are made at the Justice Department, because it deals with the bread and butter of the Justice Department. But if Boyden—which he did—wanted to get involved in disability legislation, or deregulation and so forth, and set up interagency groups to work on that and develop the legislation, that was fine. I understood that that was the perspective of the White House. We were a player in that and assisted in that process.

Where it got interesting, in some of the issues that Walter raised, was in advising. What's advice, providing legal advice? The attorney general has the responsibility under the statute for providing legal advice when asked by the president and by the Cabinet. I don't say that that's paramount, because it's statutory. The president can get legal advice from whomever he wants to get legal advice from in making up his mind. I have no problem with counsel of the president giving legal advice to the president. But when push comes to shove, in the real world, pragmatically and politically, the determinative advice has to come from the Department of Justice, because the bottom line is that if you try to go off and do something without the Department of Justice and the attorney general backing the legality of it, you're going to be in deep kimchi.

It's also a little bit like—it's a bad analogy in many ways, but—like going to outside counsel. You know, the CEO of the corporation and I can get together and decide to do something that is in a gray zone and feel like, Okay, well, I've just told them it's okay, so it's okay. But by going to people who do not have the operational imperatives you do in the corporation, for example, you're not surrounded by the people who have responsibility for carrying it out and getting a little bit of distance, a little bit of independence. The opinion comes with a little bit more presumption of regularity, a little bit more credibility.

Those are the reasons why, over time, it's important to get the Department of Justice's opinion. It ultimately, in reality, has to trump whatever is coming from the White House staff. The big example that happened to me—I was deputy, but Dick Thornburgh was out of town. I was called to this meeting over in the Cabinet Room. I didn't even know what the meeting was about,

178 LLOYD M. CUTLER AND THE EVOLVING ROLE OF THE WHITE HOUSE COUNSEL

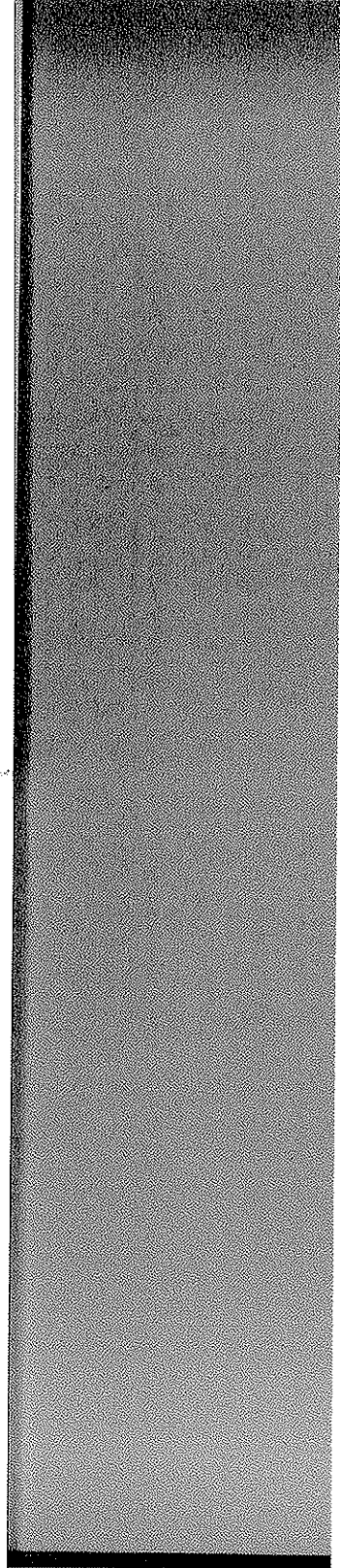
but I was having OLC do work on presidential power, because I figured the president was going to go across into Kuwait, after we had 500,000 troops there. They were there for a reason. So I had been preparing what we would say about that, and, sure enough, this happened to be the meeting where the president said, "You know, I have 500,000 troops over there and I'm reading in the paper people saying I don't have the power to do anything here without going to Congress. What does the department say about that?"

I gave my answer, which was, "You do have the power to launch an attack on the Iraqi forces in Kuwait without congressional authorization." That was the bottom-line answer, but then I went on and gave advice, "I think you should go up and get authorization, because I think you can get it up there. If you can get it, it's a lot better than not getting it."

Boyden weighed in on the same page and we were both arguing to do it. There were others arguing not to do that. But, breaking that down, if I had sat there at the meeting and said, "You don't have the power to do it; you need congressional authorization," what Boyden said would really be irrelevant, in the real world. So I think over time there is a danger in the White House viewing themselves—This didn't happen during the administration I served in, but over time, I think there's a danger in the White House counsel essentially trying to set themselves up as a sort of super OLC that uses OLC as horsepower, but essentially it's their opinion. That could be a dangerous evolution.

Now, this is my final point, which is, what does it mean to get a legal opinion? We shouldn't kid ourselves that people at the Justice Department are Article III judges or should behave like Article III judges unless they're asked to give opinions like Article III judges. They can be asked a lot of different questions. An example of this was the line-item veto and the indexing of capital gains. We were under a lot of pressure to come up with a line-item veto—pressure politically, I mean. The president didn't put any pressure, but, Do I have a line-item veto? Everyone is saying we should exercise a line-item veto. There had been a lot of work done in the Reagan administration on it, and we were taking a fresh look at it.

I went in to Boyden one day and I said, "You know, Boyden, we're looking at all these precedents going back in British, even Scottish, history and so forth. I have good news and bad news. The good news is I think we found a precedent back in the fifteenth century, where this king did something that looked a little bit like a line-item veto. The bad news is he had tertiary syphilis and was as mad as a hatter. So," I said, "if we do exercise this power, maybe we should call it the 'Syphilitic Prerogative.'"



One day after an East Room ceremony—and this is in Bush's book—he saw Boyden and me standing together, and he came over and said, "What's the story with the line-item veto?" I said, "Well, it's going to be very hard even to mount a reasonable argument here." And he said, "Look, in terms of executive power, I want to strengthen it. The best way to weaken it is to assert positions that you ultimately aren't going to be able to vindicate, so I don't want to just go out there and do it."

Another example was this: We were getting right into the election. We were getting our brains beaten out for not—by the [Robert] Novak crowd in the *Wall Street Journal*—for not unilaterally indexing capital gains. We were looking at that and Jim Baker called up and said, "I want you to tell us about this." And I said, "Well, what question? Are you asking how I would decide this as an Article III judge?" (This was to me as attorney general.) "Or, I said, 'are you asking whether reasonable arguments could be advanced?' He said, 'The former,' and I said, 'Okay, well, the former is, this is ridiculous; you can't do it.'"

The point is that the Justice Department is part of the executive branch. It's perfectly legitimate for the president, especially in the areas in separation of powers that are inherently gray, to ask not just what you think the better view of the law is or how you would rule as an Article III judge, but can reasonable arguments be mounted, as in giving opinions. I think it's perfectly legitimate for OLC, the Department of Justice, to lay out what the arguments could be, what the chances are, and what the risks are of making them and so forth.

I don't think that the department, in its giving of opinions necessarily sits there like an independent branch of government in the courts and just sort of says to the president, no. We're not like a black box, where the opinion comes in and then just comes out with a yes or no. You're there to help facilitate the executive's program and that means sometimes helping them get the job done. It's giving them options of doing it different ways, telling them what the legal risks are of proceeding in an area where the law is not clear.

That's my overview of the relationship.

Nancy Baker: Thank you. And Jamie Gorelick.

Jamie Gorelick: I agree with everything that's been said by John and Bill. I thought what I might do is to try to provide a framework to answer Nancy's questions. So let me lay it out this way.

What changes between administrations and what stays the same in the relationship between the White House counsel's office and the White House generally and the Department of Justice?

What changes—as Bill just said and as John alluded to—are two main things. The first is personality. When I got to the Justice Department, which was a year into the Clinton administration, Janet Reno had been unknown to President Clinton. She didn't know really anybody in the White House and was not, quite frankly, that interested in getting to know them. It just wasn't her priority, so there was no way of, essentially, working issues between the White House and the Justice Department, of which—you've just heard here and you've heard for the last day and a half—there are many.

At the same time, she really wanted a chief operating officer. She wanted to make the important decisions, but have them served up to her in an organized way, so I told her, if you want me to do the job you've laid out, the entire department has to report to both of us in a unitary way. We have to have the entire front-office staff reporting to us in a unitary way, and let me take the agenda of working the department's issues within the White House. That's one example of a fit between her interests, her skill sets, her priorities, and what I could do to help her with the way she needed to operate within Washington.

On the other side of it, there were, during my three-plus years as deputy attorney general, five White House counsel, which was extraordinary. Now, fortunately for me, I knew all of them, and I had a very close working relationship with each one of them. I overlapped a little bit with Bernie Nussbaum, and then he left rather precipitously. The president said, "I need a Lloyd Cutler type," and got Lloyd, and then Ab Mikva succeeded Lloyd, and then Jack Quinn and then Chuck Ruff. Each of them had a different style, but each of them followed the practice of having an organized meeting once a week that would be attended by me and usually by the head of the Office of Legal Counsel. Occasionally, the solicitor general would join us. It was a very intimate meeting. We, in a pretty straightforward way, went through an agenda of items. The fact that Lloyd and Ab were superb lawyers and wonderful policy and political colleagues meant that we could talk very clearly and work through any number of issues. I'll talk a little bit in a minute about what sort of issues there were.

There were five White House counsel for many reasons. One of them was that it was really hard to be White House counsel to Bill Clinton. The White House was full of lawyers, including the president and the First Lady. The pace was nuts. It was not very organized in the beginning. It got better, but it never got fully organized. Just keeping track of what you needed to keep track of was hard enough, and then you had everyone else second-guessing you. I counted myself fortunate to have been a runner-up to be White House counsel, because I would have lasted about three weeks. My concept of the

strongly, but I knew that I had explained the situation to the secretary of labor in a way that eventually we would not be overruled.

At the end of the day, what I thought was important was that we took the judge selection process out of OLC and it went to Assistant Attorney General Acheson, who was head of the policy group—which I thought was exactly right, because those judgeship issues become so partisan. I wanted OLC to be a place where people of different political persuasions felt very comfortable. That was very important. I called Justice Scalia for recommendations to keep the staff as bipartisan as I would have liked, and as it had been under Ted Olson. I wish I had done more earlier on that score. I did wind up hiring one of Justice Scalia's law clerks. That was very important to maintain that sense that OLC is separate and apart.

One last word. The solicitor general is in the position where the solicitor general's client is the United States, but the solicitor general's boss is the president. But as I once said, the president has to recognize that when the president does that, the president's client is the United States and you should take into account the long-range interest of the United States if you're going to make those decisions.

Nancy Baker: Excellent observations, panelists. Do we have time for a few questions from the audience?

Question: Zoë Baird asked me to help her transition to the Justice Department because she knew that I was the only lawyer who didn't want to go into government when she was nominated. She said, Help me find the top five officers for the department, the deputy, the SG [solicitor general], and so forth, so I was helping her on that. Then her nomination got in trouble, so I met with Bill Barr two days before he left the department. My transition responsibilities were going to end the day she was confirmed, the day after the inauguration, so I planned and spent one day at the Department of Justice and packed and left. Well, Zoë withdrew and I ended up staying over there part-time for a month and a half. One of my responsibilities was working with the SG's office. There was no SG; the Bush holdovers came to me and they kept saying, "Okay, here's this case. What is the president's position?" They wanted to know. They felt it was appropriate to come back to the new administration and ask, "What is his position on these particular cases?"

William Barr: Nancy, can I say something?

Nancy Baker: Yes, please.

William Barr: We've been focusing on the potential sources of rivalry, but from my experience, they are complementary offices. In fact, the counsel has played and can play a very important role in protecting the Department of

Justice institutionally. Similarly, the department can, or at least the attorney general, really, can help the counsel sometimes from his vantage point keep all the people on the reservation, in terms of following the law and following the legal philosophy of the president.

There were countless times when, in the interagency process, the department was getting buffered, and it was the counsel to the president who could step in back at headquarters and speak for the department. That is also true in the appointments area. One of the things that I felt strongly about was that part of the law enforcement function was making sure you get real pros. They can be political appointees and they can have a political point of view, but we didn't want hacks as U.S. attorneys and in other key positions in the government. You frequently get a lot of pressure from the Hill and from the White House on appointments. From my experience, Boyden Gray was absolutely superb in trying to help the attorney general get good, quality professional appointments in key legal positions.

The key ingredient to a successful relationship is to have a counsel to the president who understands the department's institutional perspectives, where the attorney general is going to be coming from, not trying to be the attorney general from over at the White House. By the same token, it takes an attorney general who understands the White House perspective and isn't jealous and possessive every time the headquarters wants to know what's going on or wants to second-guess you and push you on an opinion or suggest a position to take in a Supreme Court brief. It takes mutual understanding of their respective roles. If they do, they can actually work very well together.

Nancy Baker: Yes, please.

Question: I understood you, Bill Barr, to say that the president should not decide whom to or not to prosecute. I want to give you two cases in a public matter. One was James Landis. James Landis had been the dean of Harvard and chairman of the SEC. At the time when this issue came up, he was a special counsel in the White House. He was trustee of all the Kennedy trusts and he kept his office in Ambassador Kennedy's office in New York. He became very ill, emotionally ill. He hadn't filed tax returns for a number of years. Bobby Kennedy was the attorney general. I told him, "We're investigating this case." He said, "Keep me advised." The case went through completely. Bobby disqualified himself from any decision making. The IRS recommended prosecution. Kennedy disqualified himself. He said, "Go forward with the prosecution." Now, not filing a tax return was not a big offense, nevertheless, he goes to jail. He goes to jail, serves a short sentence—he was in the hospital most of the time in jail—and he commits suicide because of that. That's case one.

Case two involves Sherman Adams. He was chief of staff to Eisenhower and we have a famous coat, remember that? The IRS recommends prosecution there, too. Now, mind you, the IRS immediately recommends to the Department of Justice. We have no jurisdiction in the federal courts, other than the tax court. In that particular case, this was sensitive; he had been a chief of staff for Eisenhower. Eisenhower weighs in and makes it known that he's very unhappy about this situation, and Bobby Kennedy makes the decision not to prosecute.

Now, where are you on all this, Attorney General?

William Barr: I want to make clear—I was talking as a matter of constitutional law. The president is the prosecutor in chief. But for prudential reasons and organizational reasons and political reasons, those decisions—I mean, the attorney general is the officer who is carrying out that function for the president.

I believe the primary duty of the attorney general is to see the laws are faithfully executed and make prosecutorial decisions, and insulate them from political influence. I was actually sometimes shocked at the gravity of some decisions and the impact they could have on the nation. But no one ever, in any matter, asked me to take a position in any of these enforcement cases, but there are many circumstances where I think it would be entirely appropriate, for example, when you're exercising prosecutorial discretion and you may decide not to do it for a host of reasons, like the paramount interests of the United States. If the president said to me, "I don't want to indict two members of Libya's JSO [Jamahiriya Security Organization] because, as a foreign policy matter, I'm trying to reconcile with Libya," that would be fine, that would be very—

Jamie Gorelick: Well, [Manuel] Noriega is not exactly a hypothetical. There an assistant U.S. attorney was essentially making foreign policy for the United States. That's not appropriate.

William Barr: Right. But on the other hand, I can see a situation, if there are compelling circumstances, that would lead a president, for example, to grant clemency and so forth; it would dictate that result. But there are political consequences to the president. One of the reasons you leave these things in Justice, and one of the reasons you leave a lot of opinions in Justice, is that the more the White House can actually push into the Justice Department, the better for the White House, because the more you try to pull in, you're going to live with all the political consequences of what you do, and things that are not really political, become political.

Nancy Baker: I think we have to finish it. This is very regrettable. It's been

an excellent two days. Thank you very much for being with us. Thank you, panel.

VZ: To Present At Aspen 2005 Conference @ 11:15 ET

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August 22, 2005 Monday

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Body

Company representatives of Verizon Communications (NYSE: VZ) will be presenting at the Aspen Summit 2005 today. The Company's presentation is scheduled to begin at 11:15 ET. Expected Speaker(s): William Barr, EVP

Misc Related Info:

** Original Confirmation

** Conference Information:

Aspen Summit 2005 The event will feature presentations by the senior management of leading companies in the computers, telecommunications, media & entertainment, and recreation industries. Conference Dates: 08/21/2005-08/23/2005. St. Regis Hotel 315 East Dean Street Aspen, CO 81611 Phone: (202) 289-8928 Email: mail@pff.org <http://www.pff.org/aspensummit/aspen2005/>

Load-Date: August 23, 2005

9/11 PANEL HAS NEW IDENTITY, MISSION; VICTIMS' FAMILIES REMAIN DRIVING FORCE

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Byline: By DAVID LIGHTMAN Washington Bureau DAVID LIGHTMAN; Washington Bureau Chief

Dateline: WASHINGTON --

Body

One look at the audience explained why, a year after the 9/11 Commission issued its report, the panel is still a force in shaping how America responds to terrorist threats.

Sitting in the front rows Monday as commission members talked about civil liberties were Mary Fetchet, the New Canaan woman whose son Brad died in the 2001 World Trade Center attacks, and a half-dozen others who lost loved ones.

The families were the driving force behind the creation of the commission -- pushing even when the White House was reluctant to support the panel -- and they still see it as an essential voice.

"The commission makes sure everyone else does their job," said Abraham Scott of Springfield, Va., whose wife was killed in the attacks.

The commission, which lives on as the 9/11 Public Discourse Project, funded by private foundations, aims to be an oasis of reasoned discussions in a world where partisanship can poison the best of intentions.

"In some ways, the families make [the commission] the memorial," said Rep. Christopher Shays, R-4th District.

It was the commission's push that helped revamp the national intelligence system. Members continue to comment and hold forums around the country on the progress of homeland security budgets and proposals. The panel's voices are likely to be heard again in the coming weeks as Congress revisits the provisions of the Patriot Act.

Its forum Monday had all the trappings of an important Washington event. Television cameras rolled. C-SPAN was there. About 20 reporters logged the event. A number of "formers" were there to speak: Attorney General William P. Barr, Deputy Attorney General Philip Heymann, Canadian Prime Minister Kim Campbell and others.

Commission member Richard Ben-Veniste, one of the moderators, set the day's tone by talking about the complexities of the Patriot Act.

Passed in the wake of the 2001 attacks to give the government powerful tools to act swiftly against suspected terrorists, the act has come under some fire for giving law enforcement agencies too much authority.

Ben-Veniste Monday urged putting aside "partisan objectives" and trying to achieve the delicate balance between security and civil liberties.

9/11 PANEL HAS NEW IDENTITY, MISSION; VICTIMS' FAMILIES REMAIN DRIVING FORCE

"Most provisions of the Patriot Act respond directly to realities of the terrorist threat by facilitating coordination of foreign and domestic intelligence [and] by strengthening the laws to more effectively detect and disrupt terrorist financing and to keep pace with advances in technology," he said.

But, he warned, "others, like the library and bookstore search provisions, seemingly fail the justification test."

A dozen experts engaged in three hours of discussion about how to proceed. Two more panel discussions are planned on other topics, and in the fall, the Public Discourse Project expects to issue a report card on how well the 9/11 Commission's recommendations have been implemented.

The commission's active epilogue is a striking contrast to almost every other blue-ribbon commission that's ever dumped a report on the desks of Washington title-holders.

A primary reason why family members, politicians and academic experts see the panel as remaining influential lies in its ability to distance itself from Washington politics.

While Democrats criticize Bush for moving too slowly on homeland security, and many Republicans charge Democrats with seeking to dilute the Patriot Act, the commission's members are "able to raise a lot of issues that have yet to be resolved," said Rep. Bennie Thompson, D-Miss., top Democrat on the House Homeland Security Committee.

A second reason for the commission's endurance, experts said, is that its 2004 report has "a literary quality. People were able to read it," said Campbell, now secretary general of the Club of Madrid, which promotes democracy throughout the world.

The report has become a feature-length documentary, narrated by Oscar winners Hilary Swank and Kevin Costner. "On Native Soil" is expected to open in theaters this fall.

And the commission's recommendations continue to touch daily lives.

"Commission members are still trying to shed light on a series of problems that still afflict us," said Sen. Joseph I. Lieberman, D-Conn., the top Democrat on the Senate Homeland Security Committee.

The commission urged the creation of the office of a national intelligence director, and in February, President Bush named John Negroponte to oversee 15 secret agencies. It also recommended that Congress create strong homeland security committees, and it has done so.

But, said commission Vice Chairman Lee H. Hamilton, "we're disappointed that there's a lot that hasn't been done yet."

The Homeland Security Department has come under sharp criticism for being disorganized and ineffectual and failing to find adequate ways to protect chemical plants, transit systems and ports.

Efficiently distributing homeland security money back to state and local officials also remains difficult. Last week, Secretary Michael Chertoff announced a new structure for the department.

This week's hottest homeland security topic is likely to be the Patriot Act, and Monday, Ben-Veniste said the debate "has been somewhat muddied because the act became a symbol for all encroachments on civil liberties, whether or not actually related to its provisions."

For example, the government's detention of hundreds of immigrants after the Sept. 11 attacks was not authorized by the Patriot Act, but by an attorney general's order.

Load-Date: July 19, 2005

9/11 PANEL HAS NEW IDENTITY, MISSION; VICTIMS' FAMILIES REMAIN DRIVING FORCE

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Inadmissible: Federalist Society Fervor; Holding Pattern in Cuba; and More

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Body

GOP WIN FEEDS FEDERALISTS' FEVOR

Conservative lawyers and legal scholars converged last week in Washington, echoing familiar refrains about everything from the USA Patriot Act to tort reform ? and basking in another Republican White House win.

But Senate Majority Leader

Bill Frist made it clear at the annual legal huddle of the

Federalist Society that there are still battles to be won. The Tennessee Republican warned that Democrats should stop blocking President George W. Bush's federal court nominees, telling the meeting's audience that "one way or another, the filibuster of judicial nominees must end."

The meeting drew more than a dozen appeals court judges, many of them discussion panel moderators, as well as Supreme Court Justice

Antonin Scalia, who was slated to speak on the night of Nov. 12.

The judges were joined by luminaries from the corporate world, including Verizon General Counsel and former Attorney General

William Barr and Tyco General Counsel and Executive Vice President

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William Lytton, who moderated a panel on current issues in business and law, including new corporate governance requirements and tort reform. "Once upon a time, developments in business and developments in law would be two separate discussions. Now they are inextricably linked," said Lytton, who took over as GC for the scandal-tarred Tyco in 2002.

W. Thomas Haynes, executive director of the Coca-Cola Bottlers' Association, dealt a blow to bipartisanship ? at least on the part of corporations ? in a discussion on the greatest threats in the legal system to major corporations. He urged corporate America away from Democrats, saying that in the tort reform fight "a triangulation strategy is not going to work."

The Federalist Society, founded in 1982 by conservative law students at the University of Chicago, usually opens the floor to an opposing perspective during most of its panels. That was the case at a three-year retrospective on the USA Patriot Act. But in the exchange between New York Civil Liberties Union lawyer

Udi Ofer and

Christopher Wray, assistant attorney general in the Department of Justice's Criminal Division, the verbal barbs were blunted.

The gloves came off in earnest, however, during a discussion on the consideration of international law by American judges with University of California, Berkeley, law professor

John Yoo tossing jibes about frequent shifts in European jurisprudence.

"Every five years they are up to something different that is ruining their lives," said Yoo, who in 2002, as deputy assistant attorney general in the Office of Legal Counsel of the Department of Justice, authored a controversial memo about U.S. detainees in the war on terror and the Geneva Conventions. "The United States has to maintain Western liberal order for the world," he said.

? Lily Henning

TOUJOURS PARIS

While the Federalist Society was in the District reveling in red-state election victory last week, a decidedly blue-state, "old Europe" experience was unfolding not far away. The

Paris Bar Association, which dates back to the 13th century, held a special meeting in the District, and among its highlights was an address by Supreme Court Justice

Stephen Breyer. "J'aime France!" the bilingual Breyer proclaimed, in front of appropriately royal blue bunting at the Ronald Reagan Building and International Trade Center. Breyer confessed that his French may not be that great, but added that neither is his English. More seriously, Breyer said he and the rest of the American judiciary had much to learn from European legal developments. The French and American audience laughed when Breyer held up a folded, one-page copy of the U.S. Constitution, then a fat volume with the text of the new European

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Constitution. "Your laugh is wrong," Breyer admonished, asserting that European framers faced more complexities than U.S. founding fathers. But constitutional issues including federalism, he said, are the same "in Paris or Boston or Washington or Des Moines." Breyer pronounced the Iowa city American-style, not in French.

? Tony Mauro

VICTORIOUS

A team from the D.C. office of

King & Spalding claimed victory last week after the Supreme Court unanimously held that drunken driving is not a "crime of violence" that makes immigrants eligible for deportation. Ten partners and associates worked pro bono on behalf of Haitian immigrant

Josue Leocal, who is seeking to rejoin his family in Florida. Leocal was deported from Florida in 2002 after he served a prison sentence for a drunk driving accident.

J. Sedwick "Wick" Sollers, managing partner for King & Spalding's D.C. office, called last week's ruling important not just for Leocal, but for other immigrants facing deportation. "This case has clarified that negligent crimes will not be the basis for deportation," he said.

? Bethany Broida

ON HOLD

Last week's federal court order abruptly halting military commission proceedings at Guant?namo Bay, Cuba, was the first major victory for defense lawyers representing defendants slated for commission trials. And attorneys at several private law firms were also celebrating the Nov. 8 ruling from U.S. District Judge

James Robertson of the District of Columbia. Attorneys from D.C.'s

Covington & Burling; Seattle-based

Perkins Coie; and U.K.-based

Freshfields aided the defense team in its federal court case. Navy Lt. Cmdr.

Charles Swift, who brought the challenge on behalf of alleged al Qaeda driver Salim Ahmed Hamdan, says the pro bono work represents "the best traditions of the profession." Swift adds, "This wasn't something where you go dust off an old brief. This is brand new research." Perkins Coie partner

Inadmissible: Federalist Society Fervor; Holding Pattern in Cuba; and More

Joseph McMillan says lawyers in the firm's Seattle and D.C. offices have contributed more than 1,700 hours of pro bono work to the case. The case was argued by Georgetown University law professor

Neal Katyal, Swift, and McMillan. Covington partner

David Remes and a team of associates prepared an amicus brief on behalf of two retired generals and two retired admirals arguing that Hamdan is entitled to the protections of the Geneva Conventions.

? Vanessa Blum

CHARITY CASE

More than a dozen charities filed suit last week to challenge a government requirement that nonprofits that receive donations from federal workers investigate whether their employees are involved in terrorist activities by, among other things, comparing employees' names against a government watch list. The lawsuit, filed in the U.S. District Court for the District of Columbia, charges that the policy, adopted in January by the Office of Personnel Management's Combined Federal Campaign, is vague and misleading and that it violates the First and Fifth Amendments. American Civil Liberties Union Executive Director

Anthony Romero says the rule puts charities "in the position of becoming law enforcement officials" and violates a Reagan-era law prohibiting the office from amending the standards for participating charities without congressional approval. Representatives from the Office of Personnel Management could not be reached for comment late last week.

? Lily Henning

ADDITIONS

Sutherland Asbill & Brennan picked up four new partners for its D.C. office last week. Intellectual property litigators

Robert Gutkin,

Blair Jacobs, and

Robert Walters joined the firm from the Northern Virginia office of

Pillsbury Winthrop. Also joining Sutherland is

Bibb Strench, a mutual funds and securities law specialist at D.C.'s

Stradley Ronon Stevens & Young. According to

John North, head of the firm's IP group, Sutherland's IP practice has grown substantially over the past four years ? from about seven lawyers in 2000 to more than 40 currently. Clients, North says, include TV Guide, Minerals Technologies, Teva Pharmaceutical Industries, and biotech company BresaGen. North says the plan is for the new lawyers to add their own clientele to the list. "We believe they will be self supporting," North says.

William Atkins, co-chair of Pillsbury's IP section, says "the departures will not affect the firm's clients." Pillsbury, too, has bulked up its IP practice in recent months, adding five patent lawyers from the Northern Virginia office of

Mintz Levin Cohn Ferris Glovsky and Popeo.

? Tom Schoenberg

HOOKED

Just two days after its Nov. 8 announcement that it plans to merge with Boston's

Ropes & Gray, New York intellectual property boutique

Fish & Neave was sued by its former managing partner and another ex-partner for breach of contract and breach of fiduciary duty. In a suit filed Nov. 10 in Manhattan Supreme Court,

W. Edward Bailey, who served as managing partner of Fish & Neave between 1994 and 2000, and

Kevin Culligan, who was on the firm's management committee, claim they are owed \$2.4 million in unreturned capital and unpaid compensation. The pair, now partners with

King & Spalding, are also seeking to enjoin Fish & Neave from transferring disputed assets to Ropes & Gray until their matter is resolved. Such an injunction would not necessarily prevent the merger from proceeding, says

Jeffrey Jannuzzo, the attorney representing Bailey and Culligan. "It is not our intention to derail their merger," he says. The two firms said last week the merger would become effective Jan. 1, with the combined firm operating under the Ropes & Gray name. Jesse Jenner, chairman of Fish & Neave, said he had not yet seen the lawsuit and declined to comment on the matter.

? Anthony Lin,

New York Law Journal

KOREAN CONNECTION

Former Ambassador to South Korea

Thomas Hubbard has joined

Akin Gump Strauss Hauer & Feld as a senior adviser. In his new role, Hubbard, 61, will work on issues relating to clients with business interests throughout Asia. Hubbard is also a former ambassador to the Philippines and the Republic of Palau and served in various roles at the State Department. After 40 years in the foreign service, Hubbard says, he was looking to join the private sector and chose Akin Gump because "this firm has a lot of interest in Asian affairs, especially Korea."

? Bethany Broida

THE WINNER IS . . .

Robert Merhige Jr., a retired U.S. district judge for the Eastern District of Virginia, has received the Samuel E. Gates Litigation Award from the Foundation of the American College of Trial Lawyers. Merhige ? who played a role in earning the Eastern District its "Rocket Docket" moniker for his expeditious handling of cases ? presided over the desegregation of Virginia schools and litigation surrounding the Dalkon Shield birth control device. The Gates Award, established in 1980, honors lawyers and judges who have made a significant contribution to the improvement of the litigation process. Past award recipients include the late Supreme Court Justice William Brennan Jr. Merhige, who is now special counsel at Hunton & Williams, called the award "one of the most prestigious in the country" and joked, "I don't think they had that award when I was practicing, but if they did, they ignored me."

? Bethany Broida

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March 19, 2004

Now that a federal appeals court has overturned UNE

Now that a federal appeals court has overturned UNE rules, "it's time the FCC phased out this scam of UNE-P," Verizon Gen. Counsel William Barr told a Cato Institute lunch Thurs. Barr said the Telecom Act was intended to "induce investment and deployment of facilities" and it envisioned UNEs as a transitional mechanism to fill in the gaps of facilities-based competitive networks. "The FCC set this on its head" by devising UNE-P as "a naked subsidy scheme." He gave an example of the situation in N.J. where Verizon's cost for service is \$32.86 a month; it charges customers \$39.96, and makes an 11% profit. If AT&T leases that service as UNE-P it pays \$15.62 -- a 52% discount -- and offers it to customers at \$34.90, a 62% margin, he said. "I can hardly think of a scheme more disruptive to investment and jobs," he said. Barr said an appeal to the U.S. Supreme Court of the U.S. Appeals Court, D.C.'s decision to vacate UNE rules would "keep things in limbo for 2 years, continuing a huge overhang on the industry." He said competitors' worries that ILECs will "kick them off the network" after the court's 60-day stay period ends is "a manufactured crisis" because "there's no reason why in a 60-day period the FCC couldn't put in reasonable rules as an interim measure." Incumbents don't want to lose CLECs as customers, he said. During audience Q&A, Senate Commerce Committee aide Bill Bailey asked Barr, a former U.S. Attorney Gen., whether he thought it was unusual for members of Congress to weigh in on whether the court decision should be appealed and also whether "in the next Telecom Act, there would be any room for treatment of Bells different from cable." Barr said it's not "atypical" for members of Congress to express views, to "kibbitz," on whether U.S. Supreme Court review should be sought. On the 2nd question, Barr predictably said his view was that cable and telephone networks are "morphing" and thus should be subject to similar rules. In answer to another question,

Barr said he would be surprised if the Solicitor General decided to appeal to the U.S. Supreme Court, "much less seek a stay." He said "what [Comr. Martin and the rest of the FCC majority] really need is a stay." Barr said with the Commission divided, "the question is whether the White House will reach a conclusion" and who would make the call in the Administration, "the political or substantive policy people." And, he said, since the Administration hasn't shown a lot of interest in telecom policy it was doubtful it would weigh in strongly. If the decision was appealed, "I would be very surprised if the decision was overruled." -- EH

--- Index References ---

Company: VERIZON COMMUNICATIONS

News Subject: (Judicial (1JU36); Legal (1LE33); Major Corporations (1MA93); Economics & Trade (1EC26))

Industry: (Internet Regulatory (1IN49); Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Telecom (1TE27); Manufacturing (1MA74); Internet (1IN27); Internet Infrastructure (1IN95); Internet Infrastructure Policy (1IN62))

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Other Indexing: (CATO INSTITUTE; CLECS; EH; FCC; SENATE COMMERCE COMMITTEE; SOLICITOR GENERAL DECIDED; US APPEALS COURT; US SUPREME COURT; UNE; UNES; VERIZON; WHITE HOUSE) (Barr; Bill Bailey; Counsel William Barr; Martin)

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NewsRoom

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March 18, 2004

VERIZON's BARR CALLS FOR REDUCED ROLE FOR FCC

Calling the FCC's current regulatory regime "a cancer that is crippling the market," William P. Barr, Verizon Communications, Inc.'s executive vice president and general counsel, said Congress needed to make "fundamental changes" in the way the country is handling communications regulation and reduce the role of the FCC.

During a CATO Institute Hill briefing today, Mr. Barr said the 1996 Telecommunications Act "was obsolete the day it was passed." It doesn't match the realities of the telecom marketplace nor does it provide a coherent or sound platform for ongoing telecom policy, he added.

In addressing the prospect of new legislation, Mr. Barr said lawmakers needed to recognize the reality that "the market is naturally evolving in a direction that the regulators didn't anticipate and don't fully understand." Any success stories in the telecommunications marketplace have occurred when regulators were kept at bay, he said.

All players in the telecom market should be able to "duke it out on a level playing field" without the interference of regulations. "This is a confusing, messy business in which there are going to be winners and losers and be imperfections along the way," Mr. Barr said, "but that's what real competition is about."

He proposed that Congress establish a regulatory regime that would substantially decrease the role of the FCC so the federal agency could focus on what Mr. Barr said was the Commission's "true calling - keeping tabs on Janet Jackson's wardrobe and Howard Stern's mouth." - Margaret Boles, mboles@tr.com

TR Daily, March 18, 2004

---- Index References ----

Company: VERIZON COMMUNICATIONS INC; VERIZON LABORATORIES; FEDERAL COMMUNICATIONS COMMISSION; CELLCO PARTNERSHIP

News Subject: (Major Corporations (1MA93); Economics & Trade (1EC26))

Industry: (Telecom Carriers & Operators (1TE56); Telecom Regulatory (1TE65); Telecom (1TE27); Wireline Telecom Regulatory (1WI37))

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NewsRoom

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#2

“Matching the Regulatory Regime to the Realities of the Market”

*Remarks by William Barr,
Executive Vice President and General Counsel, Verizon
Washington, DC
March 18, 2004*

Thank you Adam for that generous introduction ... I appreciate your invitation to speak here today. [I've said before, risk saying again ...]

For me, returning to Cato is always a refreshing return to first principles. The ideas you so ably advance are the cornerstone of all sound economic policy: a dedication to limited government... a belief in the power of free markets and the dynamism of entrepreneurial capitalism. ~~Cato and its friends are the champions of these principles here in Washington, which can be a pretty tough job sometimes. I salute your commitment.~~

Today I'd like to discuss an issue that, ~~from a policy standpoint,~~ represents the polar opposite of sound economic policy and Cato's ideals. I'm talking about the vast, tangled web of irrational, uneconomic telecom regulation authored and maintained by the FCC -- a regime more suited to the sclerotic economy of the old Soviet Union than the dynamic, technology-driven economy of the United States.

I would like to start this discussion with a high level overview of the evolution of the communications market (and the natural technological and competitive forces at work within that market) and then bring the focus in more sharply on the FCC's perverse regime which -- like a cancer -- is disfiguring and crippling the natural and healthy development of that market.

Overview

For most of the 20th century, communications was seen as involving a sharp dichotomy between two very different and distinct industries.

initially 2 distinct markets

① First, there was the one-way transmission of information – that is, the business of broadcasting content. Before electricity it was newspapers. Then came radio. Then, over-the-air television. Then cable. Then satellite. All put content out on a broadcast basis – to be received by anyone with the right kind of receiving equipment -- one-way, no interaction.

② Very distinct from this was the notion of telecommunications – the provision of a transmission conduit over which users engage in the one-to-one exchange their own content. You call me, I answer, and we talk. Telecom provides the pipe – the callers provide the content. Before the telephone, it was the telegraph – and before that, just mail and the pony express.

What we have been witnessing over the past 25 years – with accelerating speed – is the complete collapse of this division. This change has been revolutionary, and has been driven by technology – specifically, the advent of digitalization, computerization, packet-technology, the internet, and the emergence of wireless technology.

collapse of division

There are three fundamental features of this upheaval.

3 fundamental features

First, as I've said, there is the collapse of the distinction between broadcast networks and telecommunications networks. Both are morphing into, and being subsumed by, the broader concept of broadband. IP technology allows cable to become a two-way pipe capable of providing not only telecommunications but other interactive services. The same technology now allows telephone networks to offer access to video and other content. The broadband offerings are evolving into an integrated, content-rich service:

--that brings together not only access to content -- text, audio, video --

--but also integrates applications that permit interactivity, that help the user organize, navigate and manipulate content.

Within the framework of this offering, telecom becomes an embedded functionality.

market evolution
The second feature of this technological upheaval has been the multiplication of broadband networks. Numerous alternative pipelines to the customer are being developed and deployed. You have the old cable and telephone systems now being transformed. You now have power companies starting to deploy broadband over power lines. Mobile wireless is moving rapidly into broadband. EVD-O which is available in Washington and is being deployed throughout the rest of the country starting this year provides up to 500 kilobits per second. Satellites are moving to two-way capability. And fixed wireless platforms are being tested.

*Given
"could
blow
doors
off
prod.
of
BS"*

The third key feature is the emergence of the Internet. What this has done is sever any necessary connection between having an ownership interest in the broadband

delivery pipeline and the ability to offer various services. A content provider does not need an interest in a network to reach the customer. It can reach its customer over the Internet. Similarly, a company can provide VOIP as an application over the Internet – so you now have the emergence of the Kazaa's of telecommunications.

FreeWorld
DialUp
Scarpie

These technological developments have produced an exciting mosaic of innovation and competition. For example:

-- This year for the first time, callers will use more wireless minutes than wireline minutes. Almost one in five wireless customers use their cell phone as their main line.

- A hundred million Americans now use e-mail.
- Anyone who has teenagers knows that IM has become a prime telecommunications mode. AOL alone has 2 1/2 Billion IMs a day. And IMs are rapidly evolving from text to voice and even video conferencing.
- About 40% of long distance telephone use and about a third of local phone use has been supplanted by wireless, IMs, emails and VOIP.

- at the end of this year, we expect 80% of our lives will be face cable companies with the ability to provide competing telecommunications.

Now the critical point is that this progress has not occurred because of

regulators. It has occurred only to the extent that regulators have been kept out.

Look at the success stories. The progress in cable came only after Congress preempted state regulation and mandated only light federal regulation. It was precisely this freedom that enabled cable companies to make the kind of investments necessary to upgrade to

Progress
when
regulators
kept
out

broadband networks. The problems in the cable arena have arisen from the actions of regulators. Regulatory action has made it more difficult for companies to compete in video, and without a sufficient competitive check, cable rates have been escalating.

Look at the wireless industry. The explosion in the wireless industry occurred only because Congress preempted the states and held the FCC back from economic regulation. *By keeping wireless a largely unregulated area, look at the amazing benefits that have flowed.* To the extent regulators acted, they messed things up. They placed low caps on the amount of spectrum any single company could own. This artificially broke the market up among too many carriers and delayed the introduction of advanced data capabilities. Fortunately, Chairman Powell has addressed this problem by removing spectrum caps.

And finally look at the growth of the Internet. *Does any one doubt that the Internet's rapid success could have happened* That would not have happened without Congress' efforts to keep the hands of state and federal regulators from throttling the Internet. Again, however, the problems arose from regulators. Regulatory action retarded deployment of the last mile, at a time when massive investments were made in long-haul backbone facilities and in applications that depended in robust broadband connections. It was as if we built the interstate highway system and all the road side accommodations but failed to provide for driveways so cars couldn't get on the system. This imbalanced development meant that many internet investments were ahead of their time and went bust.

So the lesson is clear. It is precisely in those areas where regulators have been kept at bay that we have seen the stunning progress, growth, innovation and greatest consumer benefits. [Where the regulators have intervened their actions have almost invariably been counterproductive.]

Ironically, the dynamic forces I've described were already underway at the time the Telecommunications Act was passed in 1996. You would not know that to read the Act. The Internet is not even mentioned. The emergence of the broadband market is neither recognized nor accommodated. The definitions of networks, services, and other categories are from a 1980's time warp and bear little relationship to the way in which technology and markets are actually evolving

Despite its many flaws the Act was intended to be deregulatory. The real problem was in the FCC's implementation of the Act. The FCC hijacked the Act and subverted into a new charter for regulation. If aliens descended from outer space, they would have to conclude that the most dangerous thing on earth was the American telephone. It is the most heavily regulated object in the world. There are more regulations dealing with the telephone than nuclear waste. Since 1996, the FCC has added more than 10,000 pages to the Federal Register. According to a study by economist Greg Sidak - the number of telecom lawyers has grown by 73 percent since the late 1990s.

The purpose of the Telecommunications Act was to promote markets in which competition could develop. It was never to promote a particular group of would-be

competitors, nor to ensure the success of (or subsidize) a particular business plan or mode of entry. Unfortunately, the FCC has perverted this.

Ignoring the real direction of the market, they have myopically focused on the traditional local phone network, as if cloning as many local phone companies as possible leads to competitive nirvana. Moreover, instead of promoting real competition they have preempted it with what the court has called a scheme of "synthetic competition" under which incumbents are compelled to subsidize companies like AT&T and MCI to ride on the incumbent's network. ~~And the FCC uses price regulation to allocate market share to the free-riders. At bottom it is nothing more than a corporate welfare scheme.~~

UNEP is core

At the core of the FCC's regulatory scheme – and at the center of most of the controversy – are the FCC's UNE-P rules, which stands for "Unbundled Network Elements-Platform." These so-called unbundling rules are what the D.C. Circuit just struck down for the third time.

Let me briefly explain these rules. One of the things the Act does is to allow companies which are not going to make any investment themselves in competing facilities to resell a local phone company's service. When a company wants to resell, it buys the incumbent's service wholesale for a 20 to 25% discount and simply slaps it label on the service. The reseller provides no new input to the service; it only provides its own marketing. To the extent it can be a more efficient marketer, it may generate a small margin. The hope was that, through resale, an entrant could generate the customer scale sufficient to start deploying some of its own facilities.

There is an entirely different section of the Act that was designed to induce entrants to become more than just resellers -- to start deploying at least some of their own facilities. The notion was that entrants should not have to wait until they were in a position to deploy an entire network from stem to stern. If an entrant could feasibly deploy even some of its own facilities, such as switches for example, the Act provided it should go ahead and deploy those facilities and use parts of the incumbent's network to fill in for the rest. The incumbents were thus required to lease "unbundled network elements" ("UNEs") to entrants, but only to the extent that entrants truly needed them ~~that is, only to the extent that entrants would be impaired from competing if they had to provide their own facilities~~. Incumbents were to be compensated for the cost of providing UNEs. [At the time of the Act, common examples cited were that cable companies could use the phone company's switches, while they used their own loops; and that long-distance companies could use the phone company's loops, so they could use their own switches.]

In its first set of implementing regulations in 1996, the FCC completely subverted ~~this latter provision~~ ^(a). It ruled that incumbent's entire network had to be made available regardless whether the entrant really needed it to compete. Further, ^(b) it ruled that the entire network had to be made available on an integrated basis from stem to stern -- so that the entrant was just really reselling the service under the fiction that it was leasing pieces of the network. Finally, ^(c) the FCC ruled that instead of being compensated for its actual costs, incumbents would only be paid based on what the FCC imagined it would cost to build

turned this provision on its head

hypothetically perfect network today – a fantasy that has yielded discounts of initially 40% and now 60% below cost.

allows regulators to come to a number they want

~~This perverts the statute~~ converts UNEP into a naked subsidy scheme for companies like AT&T and MCI. -- a form of corporate welfare. Adam Thierer calls this "infrastructure socialism" in a book whose title says it all: "What's Mine is Yours."

This is not a system that seeks to split the margin between a wholesaler and a reseller. On the contrary, under this system the incumbent company (which after all makes the investment to build and maintain the network) actually suffers a loss – it eats the costs of providing the facilities. The reseller, who makes no investment itself, gets a gigantic margin which is ballooned by the fact that the incumbent is sustaining a loss.

- AT&T boasts that it does not deign to enter a market unless it gets at least a 45% gross margin.
- Other industry experts have recently put the gross margin for UNE-P as high as a "guaranteed 60%."

Let me give you a real world example of how this works. In New Jersey it costs Verizon \$32.86 a month to provide a local service package. If Verizon sells this retail to its local customer, it gets \$36.96 a month – which means a gross margin of \$4.10, or 11%.

- a 52% discount below Verizon actual cost.

Now, if AT&T takes that package as a UNEP, it pays Verizon only \$15.66. ~~Because it~~
~~cost Verizon \$22.86~~ Verizon actually loses \$17.20.

Then AT&T turns around and sells the package to its customer for \$34.90. This gives AT&T a gross margin of \$25.69, or a 62% margin.

The Bottom Line: The company that makes the investment is stuck with a worse than - 50% negative margin; while the free-rider gets a positive 62% margin. That is what UNEP is all about.

One can hardly think of a scheme more destructive of investment and jobs. What incumbent is going to make investments in a network if it is required to turn around and give it to a competitor at a loss? And what competitor is going to make risky investments if it is guaranteed these kinds of margins by free-riding?

These regulatory policies have played a central role in the devastation of the telecommunications sector. Between 2000 and 2002, investment by wireline carriers declined for \$104 billion to \$42 billion. Over 500,000 jobs have been lost in the sector in the past two years. This sector help lead the expansion of the 1990s but now weighs heavily on the recovery.

One of the more pernicious effects of the FCC's UNE rules has been the suppression and distortion of the broadband market itself. ~~The choke point in the broadband and internet~~

market has been the last mile into the customer's premises. It is critical to allow phone companies to make the investments necessary to provide these broadband connections. But ~~the~~ ^{Phone companies simply have been} could not upgrade networks those investments could not be made as long as the FCC applied its UNE rules to new broadband facilities. ~~It has been~~ ^{helps} This FCC deterrent to investment ~~that explains more than anything else~~ why the United States – traditionally the world's telecom leader – has fallen into 11th place in broadband, well behind countries like Korea and Japan.

This has been a huge missed opportunity by the Administration when it comes to walking the walk on economic growth and job creation. Economists estimate that, if regulatory impediments were removed and broadband investments were unleashed, it could increase GDP by \$414 billion and create over 1.2 million jobs over the next 10 years. But the Administration is strangely ^{silent} ~~AWOL~~ while a major engine of the economy gets held back for no reason other than bureaucratic fumbling.

Fortunately, one of the good things about the Triennial Review Order issued in August is that the FCC took the first step in removing some of the impediments. It ruled that the UNE regime does not apply to most new broadband investment. The Court of Appeals, while striking down much of the rest of the Order, emphatically approved this aspect of the Commission's decision. But the Order itself leaves a number of open issues that must be addressed. And while it says that UNE rules will not apply, it has not said what rules, if any, will apply, and specifically whether there will be parity between cable and phone companies.

Chairman Powell and the other two Republican commissioners all say they are for deregulating broadband and unleashing its full potential. ~~This team has been in place for three years and they still have not cleared the path for broadband investment.~~ Clarion calls are nice, but it is long past time for action.

And it's not like the FCC can't move fast when it wants to. Ask Howard Stern.

*2 Democratic
Members + Commission
Parties*

→ Unfortunately, while there has been progress on broadband, a majority of the Commission seems perversely committed to continuing its bankrupt UNEP policies for all the rest of the network. ~~This~~ despite the fact that its UNEP rules have just been judicially struck down for a third time. ~~As I am sure you all know, the FCC's first UNE rules were struck down by the Supreme Court in 1998 on the grounds that they were too sweeping and failed to limit availability to those circumstances where they were truly needed. The FCC then tried to reinstate a similar set of that was struck down in 2002 by the Court of Appeals struck down those rules, again because the FCC refused to limit unbundling to the cases where it was needed. In the TRO this past August three commissioners adopted the tack of trying keep blanket unbundling in place and punting the key decisions to state commissions. The Court of Appeals has just again invalidated the FCC rules, finding the attempted delegation unlawful and the FCC's basic approach still too sweeping. The Court gave the Commission 60 days to correct its deficiencies.~~

When I was AG, I favored "Three strikes + you're out".

Where's the "three strikes and you're out" rule when you really need it?

Where is it when you really need it.

What should be done in the wake of the Court's opinion? The Commission should move to bring the UNEP ~~rule~~ to an end. As the Court has said, it sacrifices real competition in favor of "synthetic competition", ~~whereby competitors paid huge subsidies to free-ride on the incumbent's network~~

The premise of the UNEP rule is that competitors cannot compete unless they get every single piece of the network from the incumbents. This is clearly a fallacy that is indulged in solely to preserve the massive subsidies to AT&T and other companies. But, under the statute, UNEs were never intended to be a subsidy and were always supposed to be transitional so that competitors could move to their own viable business plan using their own facilities. It is time to phase out the subsidy and make UNEs transitional.

Chairman Powell's earlier proposals were quite reasonable and are still the most sensible course. AT&T and MCI already have their own switches in major markets and can readily use them to provide service. Switches should be removed as UNEs in these markets. If competitors still wanted to rely entirely on an incumbent's facilities they could still do so, but at the more modest discounts applicable to resellers. There would be a transition period during which UNEP discounts were brought into line with these more realistic discounts.

[More importantly, recognized we have incentive to keep carriers on our networks. We should

two Democratic members
Unfortunately, Commissioner Martin wants to appeal the decision to the Supreme Court to keep everything in limbo for a year or two. But this would simply perpetuate turmoil and uncertainty, suppressing investment, putting at risk the progress already made in

Get away from rates set by regulators & allow parties to negotiate v

Commission's position

broadband, and continuing a huge overhang over the sector. ~~He~~ and AT&T are urging the White House to get the Solicitor General to support their position. The argument seems to be that if the current rule expires in 60 days and there is no substitute in place, then local companies will be in a position to substantially raise wholesale rates or kick competitors off the network entirely.

This is an artificial crisis. First, there is no reason why the Commission could use the 60 days to address the Court's concerns and put in place an adequate set of rules. Second, the incumbents have made it clear they are not interested in kicking competitors off their networks but are willing to negotiate reasonable rates. Absent a negotiated resolution, incumbents have sought a reasonable transition whereby the draconian discounts are brought into line with the statute's resale discounts.

Looking beyond the current brouhaha over the fate of the UNEP regime, it is clear that Congress needs to make some fundamental changes in the way we approach communications regulation.

① → As I said at the outset, the Telecommunications Act was obsolete the day it as enacted. It does not match market realities and does not provide a sound basis for ongoing telecommunications policy.

② But what should the hallmarks of a new approach be?

→ First, we have to recognize ^{*the reality*} that the market is naturally evolving in a direction that regulators did not anticipate. The discrete markets of the past are being subsumed into a broadband market that is being increasingly characterized by inter-modal competition

among various technologies. All these competing platforms and technologies – wireless, cable, phone, satellite, power companies, VOIP, ISPs and so forth – should be allowed to mix it up on a level playing field. This is a confusing, messy business in which there will be winners and losers and imperfections along the way. But that is what real competition is about. It is this process, not bureaucratic shell-games, that offers a genuine prospect of competition, stunning innovation and growth, and vast consumer benefits.

→ Second, we have to learn from what has worked in the past. The lesson has been that the greatest progress has been made when regulators have been held at bay. And what market competition is telling us today is that we need an end to economic regulation of communications technologies. The notion that regulators can “manage” this messy and complex process is a phantasm. Last month Commissioner Susan Kennedy of the California PUC (who incidentally was appointed by Governor Gray Davis) gave a superb speech on this illusion. It is so good I want to quote a few of her statements:

“

”

→ Bees make honey ... regulators regulate. Rarely do regulatory bureaucracies voluntarily give up control. And this is why any new approach must drastically limit the purview of regulators.

→ This means we must directly confront the issue of state-by-state regulation of telecommunications. We cannot have a national broadband industry in a world balkanized into 51 separate regulatory regimes, each with its own mini-FCC. As Adam Thierer wrote recently, the concept of a “national broadband policy” is not

fundamentally unsound so long as that national policy is based on deregulation, pricing liberalization, and even a fair degree of federal preemption of state and local regulation."

Nor is this a legitimate "states rights" issue. The founder's clearly understood that there were some industries which by their very nature are interstate and cannot develop and grow under disparate localized control. That is why there is a commerce clause in the Constitution – precisely for industries like this. These are usually "network" industries like railroads, or airlines – and yes, telecommunications.

You may have noticed that ~~in this more reasonable, pro-market communications~~ ^{without the duty for economic regulation} the ~~regime -- there is~~ ^{I propose leaves a} substantially reduced role for the FCC.

That's by design.

The ~~new rules I propose~~ ^{This} will free the FCC to pursue its true calling: keeping tabs on Janet Jackson's wardrobe – and Howard Stern's mouth.

Thank you.

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THE FEDERALIST SOCIETY

20th ANNIVERSARY

NATIONAL LAWYERS CONVENTION

SHOWCASE PANEL II
LAW ENFORCEMENT POST 9/11:
BALANCING CIVIL LIBERTIES AND PUBLIC
SAFETY

PROFESSOR JOHN BAKER
HONORABLE WILLIAM P. BARR
HONORABLE MICHAEL CHERTOFF
PROFESSOR GEOFFREY STONE
PROFESSOR NADINE STROSSEN
HONORABLE LOIS HAIGHT

Friday, November 15, 2002

1 FEDERALIST SOCIETY

2 SHOWCASE PANEL II

3 LAW ENFORCEMENT POST 9/11:

4 BALANCING CIVIL LIBERTIES AND PUBLIC SAFETY

5 MR. REUTER: Thank you for being here
6 this morning. That was a fascinating discussion on
7 the use of courts in determining the ground rules
8 for and even the course or outcome of elections. I
9 think when we first discussed the possibility of
10 adding that address to our convention, we had
11 envisioned it coming on the heels of hotly
12 contested, too-close-to-call, mid-term elections
13 throughout the country, a few of which would
14 ultimately be decided in or at least argued in the
15 courts.

16 However, with only a couple of
17 exceptions, the outcome of those most recent
18 elections was uncommonly clear, and recourse to the
19 courts has not been widely sought. Yet I think
20 that issue is going to rise again, maybe as early
21 as December in Louisiana, so we'll wait and see.
22 But I thank John Fund and Professor Raskin for

1 their thoughts and their insights.

2 My name is Dean Reuter, and I'm Director
3 of the Federalist Society's Practice Groups. It's
4 wonderful to see so many familiar faces here, and
5 so many new faces as well. I thank you all for
6 being here on the second day of the Federalist
7 Society's National Lawyers' Convention.

8 You're fortunate to be here on what I
9 think is the most outstanding of the three days of
10 programming at our convention. Of course, I'm
11 going to say the same thing tomorrow morning about
12 tomorrow's panels. That's just a long way around
13 to saying that we think we have packed three days
14 of thoroughly intelligent, thoughtful, and
15 informative presentations into our anniversary
16 convention.

17 We're going to continue today with our
18 second showcase panel, this one on law enforcement
19 post-9/11, balancing civil liberties and public
20 safety. We have assembled another blue ribbon
21 panel to help explore the extremely complicated
22 issues in civil rights, national security, and

1 public safety that confront our nation since it was
2 attacked on September 11th.

3 I'm very pleased to introduce today's
4 panel moderator, Judge Lois Haight. Her biography
5 is in the convention program, so I'm not going to
6 go into great detail. Judge Haight is a judge in
7 the California Superior Court, Contra Costs County,
8 where she has served since 1993. Her professional
9 life prior to becoming a judge is filled with law
10 enforcement related positions that make her
11 uniquely well-qualified to preside over this panel.

12 She has served as an assistant attorney
13 general in the U.S. Department of Justice. She has
14 also served as a deputy district attorney, a
15 probation officer, and a juvenile hall counselor.
16 She has also served as a United States delegate to
17 several U.N. conferences; one on crime, one on
18 crime prevention, and one on illicit drugs.

19 She's chaired the White House Conference
20 for a Drug Free America. She chaired the
21 President's Task Force on Victims of Crime, and she
22 chaired the National Crime Prevention Coalition.

1 | Importantly, for us, she has served as a member of
2 | the Federalist Society's Board of Visitors since
3 | its inception in 1990. We're very pleased and very
4 | fortunate indeed to have someone of her experience
5 | to oversee our next showcase panel, so please join
6 | me in welcoming her. Judge Haight.

7 | JUDGE HAIGHT: Good morning. I'd like to
8 | welcome you all to our panel discussion this
9 | morning on the natural conflicts that arise when we
10 | have, throughout our history, tried to protect the
11 | rights of our citizens guaranteed by our
12 | Constitution while at the same time defending
13 | ourselves against mortal enemies of America.

14 | Most of us in this room studied in law
15 | school the cases from the Civil War, World War I,
16 | World War II, from President Lincoln's declarations
17 | of martial law to German espionage and war crime
18 | trials to the internment of Japanese Americans.
19 | We've seen the difficulty of dealing with these
20 | conflicts. Now, sadly, we are living the events
21 | again, not just reading about them in a law book.

22 | September 11, 2001 was the largest and

1 | arguably the most significant attack on the United
2 | States homeland in history. More people died in
3 | New York and at the Pentagon than at Pearl Harbor.
4 | It was the first time two of our major cities were
5 | attacked without warning by a foreign enemy since
6 | the War of 1812.

7 | Today, as we examine the conflict between
8 | civil liberties and protecting our country and its
9 | citizens, we need to remember that while this is a
10 | very interesting discussion, it is not merely an
11 | academic exercise. People many of us knew and
12 | admired were called upon and lost their lives for
13 | their country, and many more of our fellow
14 | Americans may be called upon in the future to
15 | defend our country.

16 | So when listening to these distinguished
17 | panelists today, let us be sure and draw the
18 | distinction between the civil liberties actually
19 | guaranteed by the Constitution of the United
20 | States, and privileges and conveniences some in our
21 | society have grown used to and have been persuaded
22 | to call rights.

1 We have a very outstanding panel this
2 morning. In the interest of time I also will not
3 read their biographies, but they are in the program
4 that you have before you in full. I'm introducing
5 in the order of their speaking. I will do so, and
6 I will remind you we will save a half an hour for
7 questions afterwards. I will remind you, please
8 make them questions.

9 All right, I'm going to start with our
10 first speaker. I will just go in the row to make
11 sure you know who's here. Nadine Strossen, Mike
12 Chertoff - Nadine Strossen, president of the ACLU
13 for how many years, Nadine?

14 PROFESSOR STROSSEN: Eleven years.

15 JUDGE HAIGHT: Eleven years, very
16 impressive. And Michael Chertoff, a fellow
17 Assistant Attorney General. Geoff Stone, Professor
18 at the University of Chicago Law School. William
19 Barr, former Attorney General. Professor John
20 Baker, LSU Law School. We'll start with Ms.
21 Strossen.

22 PROFESSOR STROSSEN: Thank you very much,

1 Judge Haight. Good morning everybody. I expect
2 you to answer the way my students do: "Good
3 morning, Professor Strossen."

4 As always, I'm delighted to address this
5 convention along with the many other Federalist
6 Society forums to which I've spoken. Since Gene
7 and Leonard have been kind enough to invite me to
8 so many of your annual conventions over the years,
9 I am now going to return the courtesy and invite
10 all of you to the first annual convention of the
11 American Constitution Society, which will be held
12 right here in D.C. on August 1st and 2nd next year.
13 I also invite you even more enthusiastically to the
14 ACS's 20th anniversary convention in the year 2023.

15 Seriously, you Federalists certainly have
16 set the bar very high for what can be achieved in
17 two decades. So thank you for inspiring and
18 galvanizing this new group.

19 Given this historic anniversary
20 convention, it's especially appropriate for me to
21 start with my standard reminder to all Federalist
22 Society audiences of this organization's

1 | libertarian founding principles, which are directly
2 | relevant to this panel's topic. In your mission
3 | statement's opening words, "The Federalist Society
4 | is founded on the principles that the state exists
5 | to preserve freedom." These are the first words of
6 | your mission statement, not the ACLU's I hasten to
7 | underscore, although we certainly would concur with
8 | them. It goes on to say, "The Society seeks to
9 | reorder priorities within the legal system to place
10 | a premium on individual liberties." Also key to
11 | this panel's topic, your mission statement declares
12 | that "the separation of governmental powers is
13 | central to our Constitution."

14 | In my 12 minutes, I can't even list the
15 | many ways in which the so-called war on terrorism
16 | has violated these fundamental precepts of the
17 | Federalist Society and of our constitutional
18 | system. For an excellent summary, I commend to you
19 | the ACLU's recent report, which you can find on our
20 | web site, our award-winning, newly relaunched web
21 | site, at www.aclu.org.

22 | The title of this report says it all:

1 "Insatiable Appetite: The Government's Demand for
2 New and Unnecessary Powers After September 11th."
3 We updated that report just last month, but as its
4 title predicts, it's already out of date, because
5 the government already has arrogated even more
6 unjustified powers since then.

7 Looming over us right now is the homeland
8 security legislation, which threatens both
9 individual freedom and government accountability in
10 several ways largely ignored by the mainstream
11 media. Let me mention just one example since it's
12 part of a larger especially disturbing pattern:
13 the unprecedented shroud of secrecy that the
14 government has thrown over almost every aspect of
15 its terrorism investigation.

16 Furthering that ominous trend, the
17 homeland security law removes even more vital
18 information from public scrutiny. It exempts
19 information about so-called critical infrastructure
20 from the Freedom of Information Act. The law even
21 goes so far as to impose criminal penalties on
22 government officials who disclose this information.

1 It would treat as criminals even whistle blowers
2 who provide important information, including
3 ironically, information that could enhance public
4 safety.

5 So as with too many post-9/11 rights
6 restrictions, this is again the worst of both
7 worlds. It does make us less free, but it does not
8 make us more safe. Indeed, it may well do exactly
9 the opposite.

10 While most of the media haven't been
11 covering these kinds of issues, a noteworthy
12 exception is that card carrying conservative
13 libertarian, New York Times columnist, William
14 Safire. He has blasted, just yesterday, the
15 unjustified privacy invasions in the homeland
16 security law, just as he has persistently
17 criticized many post-9/11 measures.

18 In yesterday's New York Times Bill Safire
19 wrote that, "If the Homeland Security Act is not
20 amended before passage, we will have the super
21 snoop's dream of total information awareness, the
22 data-mining power to snoop on every public and

1 private act of every American."

2 It's so good of William Safire to write
3 this forceful column just in time for my appearance
4 here today. This happens to be the second year in
5 a row that he has been my virtual debate partner at
6 your annual convention. Coincidentally, I checked
7 my Palm Pilot and it was exactly one year ago to
8 the day that I spoke at your last annual
9 convention. On that occasion, too, Safire had just
10 written a column in which he denounced a series of
11 unilateral power grabs by the Administration, in
12 the wake of the terrorist attacks as, "dictatorial
13 power."

14 That column particularly condemned the
15 President's then-new military tribunal order. In
16 Safire's words, "This infamous order replaces the
17 American rule of law with military kangaroo
18 courts."

19 Well, shortly after your last convention,
20 my co-panelist today, Bill Barr, and I also
21 appeared together on Australian Broadcasting to
22 debate these military tribunals. Since I was

1 debating such a prominent conservative Republican,
2 I gladly quoted -- as you'll remember, Bill --
3 another prominent conservative Republican, who
4 supported the civil liberties position. So I
5 quoted Bill Safire's language about kangaroo
6 courts. As you can imagine, our Australian host
7 immediately protested the defamation of their
8 beloved native animal. As you know, Safire is an
9 expert on etymology, and he and I both looked up
10 the roots of "kangaroo court" and discovered it in
11 fact has nothing to do with Australia. The term
12 originated instead, in of all places, Texas!

13 The particular measures I have cited
14 illustrate general patterns that pervade the
15 government's post-9/11 strategy. First, an
16 unprecedented new penchant for secrecy, violating
17 the core principle that a government for the people
18 and by the people must be transparent to the
19 people.

20 Second, a disdain for the checks and
21 balances that also have been a fundamental
22 cornerstone of our democracy consistent with the

1 framers' intent, not to mention consistent with the
2 Federalist Society's mission statement. The
3 Administration has regularly bypassed Congress,
4 while both the executive and the legislative
5 branches have systematically weakened the judicial
6 branch's authority to check government excess.

7 This tendency to restrict judicial review
8 has infected everything: from the Attorney
9 General's regulation authorizing government
10 interception of attorney-client communications for
11 all people in federal custody, including those who
12 are awaiting trial and presumed innocent; to the
13 many provisions in the U.S.A. Patriot Act that
14 permit pervasive, invasive surveillance, including
15 of individuals who aren't even suspected of any
16 crime, with only minimal judicial oversight; to the
17 Administration's assertion of unilateral discretion
18 to label even an American citizen an "enemy
19 combatant" and to incarcerate that person
20 indefinitely without charge, without trial, and
21 without access to counsel.

22 Let me mention just two additional

1 | problematic patterns that have pervaded too many
2 | post-9/11 enforcement strategies. The first is the
3 | disrespect for the fundamental principle of
4 | equality under the law. Young Muslim men from the
5 | Middle East and South Asia have been subjected to
6 | dragnet investigations and even incarcerations
7 | based only on who they are, not what they've done.

8 | Last fall, before it imposed a total
9 | blackout on any information about these secret
10 | prisoners, the Administration acknowledged that it
11 | had incarcerated about 1,200. This unprecedented
12 | preventive detention, based on demographic
13 | characteristics and under a cloak of secrecy, has
14 | earned wide-spread criticism, including from
15 | prominent conservatives and law enforcement
16 | experts.

17 | The final pattern I'll cite of core
18 | constitutional values that are being subverted by
19 | the counter-terrorism campaign, is the government's
20 | disrespect for the rule of law, the fundamental
21 | tenet that we are a government of laws, not of men.
22 | Many of the new powers assumed by the President and

1 his officers defy that notion.

2 Key examples include the detention of
3 Americans in military brigs and the contemplated
4 procedures for non-citizens facing military
5 tribunals. Both essentially give the final word on
6 the accused person's fate to the President or the
7 Secretary of Defense.

8 Resorting to such tactics, even
9 temporarily or in limited contexts, is cause for
10 grave concern. That concern is especially acute
11 now, because so many of the government's sweeping
12 new powers are not limited in either time or scope.
13 Only a few provisions of the U.S.A. Patriot Act are
14 subject to a sunset clause. Many of its
15 investigative tools aren't focused on terrorism but
16 apply instead to law enforcement generally.

17 According to the conference brochure,
18 this panel is supposed to "develop standards for
19 balancing freedom from government with personal
20 safety and national security." But at last night's
21 banquet, Federalist Society founders and leaders
22 kept intoning the mantra of the Constitution and

1 | its original intent, the text and intent of the
2 | Constitution. I should think then that those would
3 | provide the governing standards for all
4 | Federalists. They certainly do for civil
5 | libertarians.

6 | In particular, the government's power to
7 | invade individual privacy and freedom through any
8 | type of search and seizure, surveillance, should be
9 | subject to the Fourth Amendment's key requirements
10 | of individualized suspicion and judicial review.
11 | The government's restrictions on other fundamental
12 | rights, including its many restrictions on First
13 | Amendment freedoms, should be subject to
14 | constitutional strict scrutiny.

15 | Significantly, the Constitution contains
16 | only one limitation on only one right in certain
17 | national emergencies, its delegation of power to
18 | Congress to suspend the writ of *habeas corpus*.
19 | Thus, there is no textual warrant for any further
20 | limits on rights just because the national security
21 | is in peril or might be in peril.

22 | To be sure, the goal of preserving

1 national security certainly is of compelling
2 importance. So any counter-terrorism measure
3 easily satisfies the ends prong of strict scrutiny.
4 But the mere assertion of counter-terrorism aims is
5 not enough to satisfy the means prong. The
6 particular measure must actually be effective, and
7 it must be narrowly tailored.

8 As I summarize this standard to non-
9 lawyers, it essentially comes down to looking
10 beyond the counter-terrorism label of any
11 particular measure to ensure that it really does
12 maximize national security with minimal costs to
13 individual liberty. This approach reflects just
14 plain common sense as well as constitutional law.

15 Last, but very far from least in this
16 audience, this approach also is consistent with the
17 Federalist Society's own tenet of maximizing
18 individual freedom and minimizing government power.

19 Thank you very much.

20 JUDGE HAIGHT: Thank you, Ms. Strossen.
21 I think the audience is now fully awake. Mr.
22 Chertoff.

1 MR. CHERTOFF: Thank you. Nadine, I'm
2 glad you mentioned the new web site, because
3 actually we've been reading that even before it was
4 put out. Actually, that was a joke, so I don't
5 hear about it later.

6 Actually my thesis is that the title of
7 the panel is wrong, because you really don't have
8 an opposition between national security and civil
9 liberties, at least as we've seen the developments
10 over the last year. I think in fact we have quite
11 successfully reconciled national security interests
12 with out fundamental civil liberties.

13 In fact, I think to some degree national
14 security is a fundamental base line of our civil
15 liberties, because without the security of our
16 persons, we can't enjoy the benefits of freedom.
17 At the same time, I don't think anybody that I know
18 in the Administration has suggested that we
19 sacrifice our core constitutional rights in the
20 interest of national security, because I think we
21 can honor both imperatives at the same time.

22 I think the key is to recognize at the

1 | outset that we have to separate, as the judge said,
2 | what is a core fundamental constitutional right
3 | that we find in the text of the Constitution from
4 | what is simply custom and convenience. There are
5 | many things that we've grown accustomed to over the
6 | years that we have had to sacrifice in the wake of
7 | 9/11.

8 | I remember the days when you could be a
9 | minute away from closing the door on the airplane
10 | and arrive at the airport and run on to the plane,
11 | and you were able to catch your flight. That
12 | customary convenience is now gone. But it's not a
13 | constitutional right; I didn't have a right to get
14 | on the plane without having my shoes inspected.

15 | So we have to separate those issues of
16 | convenience and custom from the issue of core
17 | constitutional rights. I think if we get into the
18 | specifics, what you will see is the entirety of
19 | what Nadine has complained about. If you examine
20 | what we've actually done as opposed to
21 | generalizations about what people think we have
22 | done or think we have in mind, you will see that in

1 fact we are quite comfortably within the precedent
2 that interprets our Constitution and applies it.

3 I'm going to run through -- I tried to
4 keep a list as I listened -- various
5 characterizations of what we've done. First, we
6 heard about unprecedented secrecy in terms of what
7 the government is doing. In fact, I often find
8 that there's remarkably little secrecy, as I open
9 the newspaper or turn on CNN; in fact, startlingly
10 little secrecy, and that's not to speak of the
11 issue of accuracy, which is, of course, a different
12 problem.

13 Let me take one example. There were a
14 lot of complaints about detainees whose status was
15 being adjudicated in immigration hearings and that
16 the government had a policy with respect to a
17 certain category of detainees of not having those
18 proceedings generally open to the public. Let me
19 make a couple of points. First these were not
20 secret trials, because every participant had a
21 right to have a lawyer attend the proceeding, and
22 they had a right to communicate with the outside

1 world about their conditions and about the fact
2 that they were being held in custody.

3 The press was not given a generalized
4 right of entry into the proceedings, but the
5 participants did have a right to communicate about
6 their situation. Very recently the Court of
7 Appeals for the Third Circuit precisely addressed
8 the question of whether this is unprecedented. If
9 you read Judge Becker's opinion in that case, you
10 will see, in fact, that it is quite well precedent
11 under the line of cases that defines the press's
12 right of access to government proceedings.
13 Administrative proceedings of the kind that
14 generate our immigration status hearings have not
15 traditionally been open to the press. The judge
16 quite resoundingly and compelling laid out the
17 reasons why, in a national security environment, a
18 generalized openness of these kinds of proceedings
19 would be harmful to our national security, and, not
20 coincidentally, would also invade the privacy
21 rights of the individuals involved.

22 Let me deal with that for a second. When

1 | this proposal was first addressed, about a year
2 | ago, people were poking fun at the argument or the
3 | contention we advanced that the individual
4 | detainees themselves had a privacy interest not to
5 | have their names listed openly and characterized as
6 | suspect. People were acting as if this was kind of
7 | a mock argument. Not only did the Third Circuit
8 | specifically endorse this argument in its decision,
9 | but the ACLU itself, I think, in a recent report
10 | complaining about the way detainees have been held,
11 | dropped a footnote saying, "Well we don't want to
12 | list the individual detainees who are complaining,
13 | because they don't want to have their privacy
14 | invaded." So we have to be careful about being
15 | consistent with these things.

16 | I heard a complaint about the new
17 | homeland security bill exempting information about
18 | critical infrastructure from the Freedom of
19 | Information Act. Here I have to make an appeal to
20 | common sense. I don't think there's a
21 | constitutional right to have the specifications or
22 | analyses of vulnerabilities of nuclear power plants

1 made publicly available. Someone sent me a little
2 copy of the Constitution. I thumbed through it; I
3 didn't see it there. As a matter of common sense,
4 why on earth would we want to have our internal
5 analyses of the vulnerabilities of nuclear power
6 plants spread out on the web so that terrorists,
7 who make no bones about the fact that they search
8 the web to look for things like this, can say, "Oh
9 boy, there's a power plant somewhere, and there's a
10 flaw. Let's go for it." I can't imagine what
11 constitutional or civil liberties interest would be
12 served by doing that.

13 Another criticism was raised about data
14 mining. I guess the phrase data mining always
15 conjures up someone digging into your backyard and
16 tunneling up through your floor to mine to get your
17 personal data. Of course it's quite different.
18 What it does is it takes otherwise commercially or
19 legally available information, which is completely
20 open to the public, and uses sophisticated
21 algorithms, which I don't pretend to understand, to
22 detect patterns that might be useful to the person

1 | who's searching for something. In the case of
2 | terrorist financing, where we can detect certain
3 | kinds of money flow that suggest that someone is
4 | perhaps financing a terrorist act, you can see the
5 | obvious utility of that.

6 | What's the civil liberties invasion?
7 | It's information which would otherwise be lawfully
8 | or commercially available. Frankly, when I log on
9 | to Amazon.com to buy a book, they've data mined
10 | like crazy, because I get these little pop-ups
11 | telling me about all the records or CDs that I
12 | should buy and other books that might be of
13 | interest to me. So, again, it's hard for me to say
14 | my privacy has been significantly invaded to a
15 | further degree because the government, in
16 | protecting me, is able to use the same analytic
17 | techniques on publicly available information as
18 | people who want to sell stuff to me.

19 | Military kangaroo courts: a year ago
20 | when the President first issued the order
21 | indicating that he wanted to have the Defense
22 | Department go forward and design a process for

1 handling war crimes adjudications, there was a
2 great hew and cry about what these courts were
3 going to look like. We now for some period of time
4 have had the regulations laid out. Again, when
5 people looked at the regulations, what they saw was
6 a fundamentally fair system that in many ways is
7 more protective of the rights of defendants than
8 some of the customary international tribunals which
9 some people love to hold up as a great model for
10 the future.

11 So once again we have a situation where a
12 generalized complaint turns out, when one uses
13 closer inspection, to fit comfortably within what
14 we accept as appropriately fair and constitutional
15 standards. That raises, of course, a more general
16 criticism about the whole concept of using enemy
17 combatants and military tribunals when you're
18 fighting a war. Here again I don't think you can
19 be too emphatic in making this point: none of this
20 steps outside the Constitution. Obviously, we have
21 a Fourth and Fifth and Sixth Amendment. But if you
22 take the Sixth Amendment, that is an amendment that

1 is key, and designed to deal with the criminal
2 justice process. That is a process in which people
3 are alleged to have committed crimes. We apprehend
4 them. We try them. Then we punish them for things
5 they have done in the past. That is not what we do
6 when we fight a war.

7 In World War II I don't think that they
8 got judicial permission every time they flew
9 missions over Germany or captured German soldiers
10 in the Battle of the Bulge. We did not have to go
11 through a complicated legal procedure to decide to
12 lob artillery shells during the Gulf War against
13 Saddam Hussein. We recognize that when you are
14 fighting a war and you are, frankly, killing the
15 enemy, and you are apprehending them and holding
16 them as prisoners of war or armed combatants, you
17 are operating a different model than the punitive
18 model. You're not punishing them. You're
19 defending the country using time honored principles
20 of war. You can go back 200 years and see the
21 courts have repeatedly held this is well within the
22 President's authority as Commander in Chief.

1 Finally, let me deal with one last
2 criticism. That is the accusation that somehow we
3 have used preventive detention based on demographic
4 issues to somehow hold large numbers of people of
5 certain ethnic backgrounds preventively. I have to
6 say that's simply not factually correct in any
7 respect. It reminds me a little of the Holy Roman
8 Empire, which was neither holy, Roman, nor an
9 empire. The three premises of that accusation turn
10 out all to be simply incorrect. We do not hold
11 anybody under preventive detention in the United
12 States under the criminal justice process. We have
13 people who have been charged with immigration
14 violations or charged with criminal offenses who
15 are held without bail pursuant to the appropriate
16 legal procedure. But in each case there is an
17 offense with which these people have been charged.
18 We have people held as material witnesses pursuant
19 to grand jury subpoenas, but that again is well
20 within the law. That is not preventive detention.

21 Nor do we make decisions to hold people,
22 even as it relates to these criminal charges or any

1 other basis, based on demographic issues. What we
2 do is look to things like, for example, did someone
3 pay for one of the 19 hijacker's hotel room on
4 their credit card, or have they made phone calls to
5 a number that we associate with a known terrorist?
6 We might look to those kinds of issues in
7 determining whether we want to argue that someone
8 should be held without bail. But I don't think
9 that constitutes ethnic profiling or anything of
10 that sort. In fact, I have to say quite to the
11 contrary, we've been very clear that we would not
12 only be wrong, but we would be foolish to rely on
13 ethnic characteristics as a determining factor for
14 our actions. If we look at people like the shoe
15 bomber, for example, or John Walker Lindh, for
16 example, we recognize that those who ally
17 themselves with the Taliban or with al Qaeda, do
18 not confine themselves to any particular ethnic
19 group. In fact, there's every reason to suspect
20 that the terrorists will look to find those that
21 they believe we will be less suspicious of to
22 enlist them in their schemes.

1 I guess my point is this: sure there is
2 good reason to have healthy debate about what we
3 do, to have skepticism about government, and to
4 make sure the government is complying with the
5 Constitution and complying with the law. But even
6 those who most cherish civil liberties and most
7 self-consciously consider themselves to be monitors
8 of what the government does do not advance their
9 own argument by overstating what's going on, or by
10 attempting to make it seem that every change in the
11 way we operate constitutes a fundamental
12 desecration of the Constitution.

13 Historically, if you compare what we've
14 done in the last couple of years with what Lincoln
15 did facing a crisis in the country, and what
16 Roosevelt did facing a national threat, I dare say
17 we have been more measured and careful and
18 thoughtful than in both of those prior national
19 emergencies. Clearly there are exigencies that the
20 Constitution contemplates that we can address. But
21 the record when you get to the facts, suggests we
22 have done so in a very responsible way, as befits

1 | people who, like everybody in this room, live in
2 | the same country. We enjoy the same freedoms. We
3 | intend to continue to do so.

4 | Thank you.

5 | JUDGE HAIGHT: Thank you. Professor
6 | Stone.

7 | PROFESSOR STONE: The Federalist Society
8 | believes in history. From the very beginning of
9 | this institution, this has been one of your most
10 | central tenets. I ask you this morning to take
11 | that belief and take that concern with history
12 | seriously.

13 | The fact is that when we deal with these
14 | issues, we tend to tick off the particular events
15 | of our own history in a thoughtless way without
16 | focusing on what they in fact have meant about the
17 | way we govern, about the way we perceive one
18 | another, and about the way we deal with the
19 | stresses of a national crises.

20 | Then if you take the time to look back at
21 | our history, what becomes very evident is that
22 | there is an unmistakable pattern every time we have

1 | faced a national crisis in which we in fact give
2 | too little weight to the protection of the civil
3 | rights and civil liberties, particularly of
4 | individuals who are not seen as part of the
5 | mainstream. And without exception, afterwards we
6 | come back and say, "We didn't handle that
7 | properly." What's important is to learn the
8 | lessons of that history so that when we deal with
9 | this situation, we deal with it in light of that
10 | history and with a degree of wisdom.

11 | So what briefly is that history? You're
12 | all familiar with it. In 1798 the United States
13 | was on the verge of war with France. There was a
14 | great deal of internal domestic strife in the
15 | nation. The Federalist party enacted the Sedition
16 | Act of 1798, which effectively made it a crime for
17 | any person to criticize Congress or the President
18 | of the United States. The Act was used by
19 | Federalist prosecutors and enforced by Federalist
20 | judges to convict Republican critics of the
21 | Administration, the result of which in the election
22 | of 1800 was the demise of the Federalist party, the

1 election of Jefferson, and the repayment of all the
2 fines and the pardoning of everyone who had been
3 convicted. The Supreme Court of the United States
4 has not missed an opportunity in the past 200 years
5 to point out the unconstitutionality of the
6 Sedition Act of 1798.

7 In the Civil War, as we have heard
8 several times, President Lincoln suspended the writ
9 of *habeas corpus*. Some 38,000 civilians were
10 arrested and imprisoned by military authorities
11 without the benefit of the ordinary protections of
12 the Constitution. Some of the moments in which the
13 writ was suspended were certainly justified, such
14 as in Maryland shortly after Fort Sumter. But for
15 the most part, this was done as the war progressed
16 casually, irresponsibly by military authorities,
17 with little oversight by the President. Only two
18 years after the war ended, the Supreme Court of the
19 United States held that much of that was in fact a
20 violation of the federal Constitution.

21 During World War I, as you know, with the
22 Espionage Act of 1917 and the Sedition Act of 1918,

1 the United States vigorously prosecuted dissidents
2 who protested the war and the draft. Some 2,000
3 individuals were prosecuted under those statutes.
4 Those prosecutions, which ranged from individuals
5 like Molly Steimer, an immigrant from Russia who
6 threw leaflets protesting our engagement in the
7 Russian revolution from a rooftop in the lower East
8 Side of New York to, on the other end, someone like
9 Eugene Debbs, who a few years earlier had received
10 more than a million votes for President of the
11 United States.

12 Sentences ranged from 10 to 20 years in
13 prison. Many of those individuals were deported.
14 The Supreme Court of the United States at the time
15 upheld all of the convictions in an era which was
16 aptly characterized by Harry Calvin as wretched.

17 Since then we have, of course, pardoned
18 all of the individuals who were convicted. They
19 were all let out of jail several years after the
20 end of the war. The Supreme Court has reversed
21 every one of those decisions and has made clear
22 that every person who was convicted under those

1 acts had their rights under the First Amendment
2 violated.

3 During World War II, as we've mentioned,
4 the United States interred 120,000 Japanese-
5 Americans, a decision that was made on the plea of
6 military necessity but that clearly has been
7 recognized with the availability of historical
8 materials, as based almost entirely on economic and
9 political factors. The United States came later to
10 recognize the error of its ways and under President
11 Reagan made reparations and apologized to those
12 individuals whose lives were disrupted, who were
13 taken from their homes, who were put into detention
14 camps for some three years in the middle of a waste
15 land of deserts for nothing other than being of
16 Japanese ancestry.

17 During the Cold War, in the period of
18 McCarthyism we ran amok in terms of the persecution
19 of individuals who had affiliations who were
20 thought to be dangerous or suspicious. Through
21 black listing, through criminal prosecutions, a
22 pall of orthodoxy was thrown over academia, over

1 politics, over the arts, all in the name of
2 national security.

3 The point of all this is that when we are
4 faced with these crises, we have a completely
5 natural tendency to react with fear and hysteria
6 and anxiety and to lash out at those who we see as
7 different from us. None of us in this room will be
8 the victim of anything Mike Chertoff was talking
9 about. We tend to lash out at those we see as the
10 other.

11 The problem is we have been bad at
12 dealing with this throughout our history. What I
13 ask you to do is to think hard about whether Mike's
14 statements about, "This is minimal, these are
15 issues of convenience, the most important thing to
16 the preservation of liberty is our national
17 security. " These are seductive arguments. They
18 are precisely the arguments, almost verbatim the
19 arguments that have been made in every one of these
20 eras by Mike's predecessors, and they were wrong.

21 They were not wrong in the sense that
22 every step taken was unwise, but that many steps

1 taken were unwise. When the time comes to look
2 back on this era, you will be judged. I hope you
3 will be judged to have exercised restraint and
4 wisdom and respect for the freedom to which the
5 Federalist Society is dedicated.

6 Thank you.

7 JUDGE HAIGHT: Thank you, Professor
8 Stone. Attorney General Barr.

9 MR. BARR: I don't think the war on
10 terrorism has abridged our civil liberties. I'd
11 like to sketch a framework of how I analyze these
12 issues and suggest what I think are the core areas
13 of misconception involved with critics who are
14 suggesting that civil liberties are being trenched
15 upon.

16 Fundamental to it is a distinction that
17 Mr. Chertoff made: there is a fundamental
18 difference: there are two distinct realms. One
19 realm involves domestic law enforcement. Those are
20 the internal rules that the body politic sets for
21 its members. The law enforcement process is the
22 process that we've agreed to use to deal with

1 errant members, to correct and discipline people
2 who violate those rules. We've agreed to certain
3 internal rules of process on that. The reason we
4 do it, as he said, is punishment or rehabilitation.

5 It's an entirely distinct realm when an
6 organized foreign group is waging war against our
7 society. There, the Constitution gives no rights
8 to the enemies that are attacking our society. The
9 Constitution is concerned with one thing only, and
10 that is that our society has all the power
11 necessary and appropriate to defeat the enemy. War
12 is the ultimate threat to civil liberties, and war
13 waged through terroristic means is the highest form
14 of that. Because the very means of prosecution of
15 the war are designed to destroy our civil
16 liberties.

17 So enemies, an organized foreign force
18 waging war against the United States, have no
19 rights under the Constitution. The rules that
20 apply in the domestic realm do not apply to them.
21 One of the fundamental misconceptions that critics
22 of the war on terrorism have is trying to take the

1 rules and processes that we have in our criminal
2 justice system and apply them to the battlefield
3 and to enemy combatants.

4 Now who determines who the enemy is?

5 Well, the determination as to who the enemy is, who
6 is to be killed, who is to be bombed, who is to be
7 captured, is made by the President. It is
8 executive function to wage war. It is now, and it
9 always has been, the decision of the President as
10 to who is the enemy. That's pretty basic when
11 you're trying to wage a war.

12 The war here does raise some
13 difficulties, because we're dealing with an enemy
14 that is attempting to infiltrate the United States
15 and kill us here in our homeland. So the theater
16 is global, and the theater includes the United
17 States. We have an enemy that is in violation of
18 the rules of war, not distinguishing themselves but
19 trying to infiltrate surreptitiously the United
20 States where they can carry out atrocities.

21 When an enemy gets into the United
22 States, the rules don't change. If an enemy

1 combatant gets into the United States, they are
2 still under the wartime rules. They don't get
3 greater constitutional rights the closer they get
4 to their target.

5 There is a functional distinction between
6 fighting a war and disciplining an errant member of
7 society. That's functional; it's not geographic.
8 So when the saboteurs get into the United States,
9 they're still enemy combatants. They still are
10 tried before military tribunals. Their sentence is
11 meted out by the Executive Branch.

12 This is even true when the enemy
13 combatant is an American citizen. This happens in
14 virtually every war. American citizens adhere to
15 the enemy and become combatants of a foreign power.
16 They do not get greater rights than any other enemy
17 combatant.

18 During World War II we had hundreds and
19 thousands of prisoners here in the United States:
20 Italians and Germans. Many of them were American
21 citizens. Some were American born and bred and had
22 no previous connection with Adolph Hitler except

1 they admired him and went over to fight for him.
2 They didn't get judges to decide whether or not
3 they were being lawfully held as enemy combatants.

4 Because we have this problem of where the
5 theater is, cases have arisen where American
6 citizens have been captured within the United
7 States. I think there is a legitimate issue about
8 policing the boundary between the law enforcement
9 realm and the war realm when you have this kind of
10 situation. Because in theory at least, it is
11 possible that the Executive could get out of
12 control and start hauling Americans in under the
13 pretext that they're enemy combatants.

14 So, I think unless and until the writ of
15 *habeas corpus* is suspended, then the courts do have
16 a role to play where an American citizen is taken
17 into custody in the United States and designated as
18 an enemy combatant. That has happened, as far as
19 I'm aware, in two cases: Hamdi and Podia.

20 The question is, what's the role of the
21 courts? In my view, the role of courts is to
22 review the Executive's decision. It remains the

1 Executive's decision. The role of the courts is to
2 review it to insure it's not pretextual or an abuse
3 of discretion, an abuse of power. But it is not to
4 take the decision itself and have the judge make
5 the decision against some kind of criminal justice
6 standard of admissible evidence and what the burden
7 of proof is.

8 Now, to turn briefly to the domestic
9 arena, that's the second core of misconception, I
10 think. The other area relates to domestic law
11 enforcement arena, because a lot of what happens in
12 the United States in this involves the violation of
13 laws as well. We can choose to treat some of it
14 under domestic law. In many cases it's not
15 military action by combatants. It may be illegal
16 actions under our domestic laws.

17 I'd just like to point to three flaws in
18 thinking. One has already been averted to, which
19 is the extension of rights to things that are not
20 really rights, but more like conveniences. The
21 Fourth Amendment does say that there are certain
22 core zones that we're free from government

1 intrusion without good reason. The government
2 needs a good reason to come in and intrude into
3 that zone.

4 The corollary to that is that outside
5 that zone the government has relative freedom to
6 conduct surveillance, to protect society at large.
7 When there is a large threat, it is okay for the
8 government to look out into that open arena in
9 order to protect society.

10 I think the sniper case provides a good
11 example. That was a private threat. That wasn't a
12 war against us. That was just an individual, two
13 individuals. Look at the damage they did to civil
14 liberties in this area. The police go out onto
15 rooftops at shopping centers. They check parking
16 lots. They install cameras. They stake out YMCAs.
17 They do a lot of things out there. They're very
18 intrusive, the police out there.

19 But they're not infringing on anyone's
20 Fourth Amendment rights. They are there to protect
21 our liberties. So I don't have any trouble with
22 the FBI guideline change that says that unless it's

1 | protected by the Fourth Amendment, the FBI can go
2 | and look where there's some basis to believe that
3 | there may be some enemy activity underway.

4 | The second flaw in thinking is this:
5 | liberals have taken absolute rights in the
6 | Constitution and made them relative. They've taken
7 | relative rights in the Constitution and made them
8 | absolute. Most of the rights that I'm aware of in
9 | the criminal justice arena are relative. It is due
10 | process. It is unreasonable searches. Those are
11 | inherently situational standards for which you have
12 | to look at the context. They're relative.

13 | It seems to me obvious that one of the
14 | factors, if you're looking at a relative right, is
15 | the nature of the danger. What's the magnitude of
16 | the threat? The standard for searching for a
17 | marijuana joint in the back seat of a car, where a
18 | probable cause standard may apply, might be a
19 | different if you're looking for a nuclear device
20 | that could obliterate New York City.

21 | The third error in thinking, and the
22 | final one I'll deal with, is the slippery slope

1 argument. Most of the arguments say that we don't
2 have so much trouble with this particular case, but
3 if it were carried to other cases, this would be a
4 problem. I don't think that's an appropriate
5 argument in dealing with the powers of the
6 President, in dealing with this kind of national
7 security danger, because that's the very nature of
8 Executive power. At the core of Executive power is
9 that undefined capacity to react to a unique
10 emergency situation and do what has to be done
11 under the circumstances.

12 The argument that we don't have a problem
13 with this circumstance, but let's conjure up other
14 circumstances where this could be a problem, is
15 used to deny the existence of the power in the
16 first place. Let's take an example, which I've
17 never heard a good answer to. I find it odd that
18 everyone's wringing their hands about civil
19 liberties here, but no one has contested the fact
20 that the President on his own order could shoot
21 down an aircraft filled with innocent American
22 citizens based on his judgment and his judgment

1 | alone that it was headed toward a city or a nuclear
2 | facility. I heard not a peep about the fact that
3 | we were putting anti-aircraft missiles around our
4 | cities on the anniversary date. But what? Taking
5 | of innocent American life without due process? Do
6 | we have to run to a judge to get the judge to
7 | approve that?

8 | The point is the slippery slope argument
9 | is not a legitimate argument to deny the power or
10 | to put such checks on the power that it loses its
11 | potency. So the argument that, "Gee, if we say
12 | that he couldn't shoot down that plane going into
13 | the nuclear power plant, does that mean the
14 | President has the power willy-nilly to go around
15 | shooting down aircraft at will?" No.

16 | If he does, let's worry about when the
17 | time comes and take a look at those actions under
18 | those circumstances. Those are my remarks, and it
19 | seems to me most of the arguement here is either,
20 | as Professor Stone just did, look at history and
21 | say we made mistakes in the past, ergo there's a
22 | problem now; or to say, "Gee look at all the

1 | terrible things that could happen if people didn't
2 | act reasonably, and therefore let's deny the power
3 | that is being exercised prudently today."

4 | Thanks.

5 | JUDGE HAIGHT: Thank you, Attorney
6 | General Barr. Professor Baker.

7 | PROFESSOR BAKER: As good lawyers know,
8 | the party that gets to frame the question in cross-
9 | examination or the issue in a legal argument has a
10 | good chance of controlling the debate. We've
11 | really seen the issue framed rather differently
12 | here today. Indeed, if you compare and look at the
13 | statement of our program, and if you had the prior
14 | statement, the original title, there are various
15 | ways to frame this debate.

16 | We've seen on the one hand an emphasis on
17 | the dichotomy between security and liberty. Then
18 | we've had Mr. Chertoff say there's really no
19 | dichotomy. When we dig down deeper, we see that
20 | Mr. Barr made the distinction -- I think a very
21 | important distinction that has to be emphasized --
22 | and that is the difference between law enforcement

1 and national defense.

2 But in that question there is a further
3 question about separation of powers. That was not
4 emphasized by either Mr. Barr or Mr. Chertoff. It
5 was emphasized, however, by Ms. Strossen. Is there
6 a way to look at the problem of liberty in the text
7 of the Constitution and in its structure that
8 causes us to have some reason to accept neither
9 broad claims made in the name of security nor broad
10 claims made in the name of liberty as privacy?

11 I think there is, and that's where I want
12 to focus. Unfortunately, in much of the public
13 debate the media and those who cooperate in the
14 sound bites tend to fall into this liberty versus
15 security business. But if we look at what the
16 founders were looking at, they did frame the issue
17 much the way that Mr. Barr did.

18 There is a vast difference between law
19 enforcement and national defense. But I would go
20 further in explaining what's behind that. That is
21 to say the reason why we have separation of powers
22 domestically is quite rightly to protect. We

1 protect liberty by building in a certain amount of
2 inefficiency.

3 In the arena of national defense, the
4 founders deliberately changed the equation. The
5 President is always strongest in national defense.
6 We've seen that when presidents have been most
7 popular and least popular has been when they have
8 either successfully defended the country or not
9 done so. That is the unifying point, because we
10 can't completely defend ourselves. We must trust
11 the President. The President is given great leeway
12 there in the international arena.

13 It is, as Judge Easterbrook said
14 yesterday, often a fight between the political
15 branches, one to which he says the judiciary ought
16 to be left largely out of. The problem, as pointed
17 out by Mr. Barr, is that in our current
18 circumstances, we see a blurring between what is
19 law enforcement and what is national defense
20 because of the problem of terrorism.

21 Too easily people are inclined to say, on
22 the one hand, "Well that justifies certain things,"

1 and on the other hand, "It doesn't justify certain
2 things." I'd like to suggest that both those in
3 government and those critiquing government have
4 blurred the boundaries between law enforcement and
5 national defense, and as difficult as it is, we
6 have to find a way, a series of mechanisms, to
7 properly relate those two.

8 We've heard, I think quite articulately
9 from Mr. Barr, what the critics of justice have
10 done in trying to extend basic protections of the
11 Bill of Rights which were not meant except for
12 citizens, as opposed to general due process
13 questions. What do I mean? I'm not even sure they
14 teach this in law school anymore.

15 Up until the '60's people understood the
16 difference between the Bill of Rights and the basic
17 notion of due process. Due process was there for
18 all persons. The Bill of Rights was there for
19 American citizens. The Bill of Rights do not have
20 an international application.

21 Even Justice Black and more recently
22 Justice Thomas have said that many of the rights

1 that we've talked about in the past four years are
2 really the rights of or privileges of citizens.
3 They are not the more generalized protection for
4 all persons. All persons are entitled to due
5 process. Not all persons, but only citizens, are
6 entitled to privileges and immunities of
7 citizenship.

8 That is an important distinction where
9 the critics are, as part of a general trend, trying
10 to push into the international arena the idea that
11 we should judicialize all kinds of things, that we
12 should extend protection beyond our boundaries, and
13 that ultimately courts should get involved in
14 things that are fundamentally political.

15 On the other hand, I don't think that the
16 Justice Department, and more generally the
17 Administration, ought simply to be given a pass
18 because of the claims of security. We know right
19 now that there is a big debate -- the Federalist
20 Society has sponsored another panel on this -- on
21 the continuation of the Posse Comitatus Act and
22 whether the new circumstances after 9/11 justify

1 getting rid of that rule that prevents the military
2 from enforcing laws in the domestic arena.

3 Yesterday George Terwilliger reminded us
4 that the FBI is confused about its role in terms of
5 what is law enforcement in certain cases and what
6 is involved in foreign intelligence gathering.

7 We're looking at a new Homeland Security
8 Department, and we have a new North American
9 Command, something very new. The head of that
10 North American Command has suggested that maybe we
11 ought to do away with the Posse Comitatus Act.

12 There is a legitimate concern that in the
13 course of extending our protection that we take the
14 war mentality, which is external, and we bring it
15 into the domestic arena of law enforcement. In
16 fact, we've already done it rhetorically. For
17 years we've talked about the "war on drugs." Now
18 we've talked about the "war on terrorism."

19 As far as I know, the Criminal Division
20 of the Justice Department is not the place where
21 war powers are exercised. What we have to do,
22 because we need the involvement of the Criminal

1 Division, is to make very clear, when we can, the
2 relationship between national defense and the
3 implementation, and make it clear that Justice is
4 in certain cases exercising powers that are
5 delegated in some way, or they are agents. We are
6 dealing under a national defense arena and not
7 confusing the two.

8 One last thing I'd like to mention is the
9 tendency in crisis to centralize power. The knee
10 jerk reaction after 9/11 understandably was we've
11 got to do everything and control everything. That
12 is the natural reaction of those at the point of
13 central power.

14 But as Governor Keating pointed out in a
15 mockup of reaction to terrorism called Dark Winter,
16 central government, the federal government, ought
17 to resist the knee jerk reaction to federalize and
18 centralize everything; that in these natural
19 disasters, the first responders are local. We need
20 better training, we need better coordination at the
21 local level. But we don't need to centralize it.
22 Indeed, the targets are always centralized targets

1 | that have value because of the concentration of
2 | people and the concentration of symbolism.

3 | There's a great deal of concern in
4 | Washington and New York about being a target. But
5 | I'll bet you out in the middle of Kansas there
6 | isn't as much concern.

7 | If we look at it through a different
8 | paradigm of decentralization -- and indeed there
9 | are many efforts going on right now that we don't
10 | have time to discuss -- where technology,
11 | electronic technology, need not be our enemy as it
12 | is often portrayed by Civil Libertarians. But the
13 | dispersion of electronic technology, as we saw with
14 | cell phones on 9/11, can in fact be a way of
15 | protecting our own liberties by involving more
16 | people in doing so.

17 | I would suggest that ultimately it is a
18 | mindset. Do you believe, as the framers did, that
19 | the best protection of liberty is not consolidated
20 | power, versus simply protecting certain liberties?
21 | They opposed in the Federalist Papers both
22 | consolidation of powers and, you may be surprised,

1 they opposed the Bill of Rights. Because
2 ultimately they said the real protection of rights
3 is in the structuring of power, the proper
4 structuring of power.

5 In matters of self defense, the balance
6 goes to the President. In matters of law
7 enforcement, the balance goes to the Congress.

8 Thank you very much.

9 JUDGE HAIGHT: Thank you, Professor
10 Baker. Now before we get questions from the
11 audience, we're going to give a short time for a
12 response from the panel members that wish to do so.

13 Ms. Strossen, do you wish to respond?

14 PROFESSOR STROSSEN: I certainly do.

15 JUDGE HAIGHT: Shortly.

16 PROFESSOR STROSSEN: I certainly do, and
17 it's going to be hard to be brief. Let me start
18 with the positive. I was so glad to hear Michael
19 Chertoff say that in principle he agrees that it is
20 wrong and ineffective to use profiling tactics.
21 Not everybody I've debated has made that statement.
22 I was glad to hear it. So we agree on the

1 principle. We strongly disagree on the facts.

2 Speaking of the facts, you see I do not
3 have much time here. I do have to engage in
4 generalizations. Fortunately, in the contexts
5 where we have had to lay out facts laboriously and
6 legal arguments thoroughly, namely in the courts,
7 the civil liberties arguments have prevailed in
8 almost every single case and been supported by
9 almost every single judge.

10 It is no coincidence that the only two
11 judges who are an exception to that generalization
12 were the only two who were referred to in Michael's
13 opening statement when he talked about two of the
14 three judges in the Third Circuit who ruled against
15 us on one of these cases. That is the exception,
16 not the rule.

17 I think what's particularly extraordinary
18 is that the judges who have been striking down the
19 Administration's overreaching, under constitutional
20 principles based on their assessment of the facts,
21 have included conservative appointees of
22 conservative presidents. The most astonishing and

1 remarkable example is the super secret FISA court,
2 which in its history of granting tens of thousands
3 of government requests for electronic interception
4 had never before denied such a request. That court
5 did so for the first time when it rejected this
6 Attorney General's overreaching, even under the
7 over broad surveillance authority granted under the
8 U.S.A. Patriot Act. The court felt so strongly
9 about it that also for the first time in its
10 history it made that decision public.

11 One final point on this blurry
12 distinction between criminal law enforcement and
13 the military scenario. Here I feel that there's
14 been so much confusion. I was talking in my
15 opening remarks almost exclusively about the rights
16 of people here in this country, including the
17 secret so-called detainees who, as Michael said,
18 were charged either with immigration violations or
19 in some cases with petty criminal offenses. We are
20 not talking about military combatants. It is these
21 civilians' due process rights that are at stake.

22 Last, but very far from least, it is the

1 | rights of every single person in this country that
2 | are at stake. Here I respectfully disagree with
3 | Geof Stone when he said none of us will be
4 | victimized. We are all victimized. The sweeping
5 | surveillance powers under the U.S.A. Patriot Act
6 | apply to people who are not even suspected of any
7 | crime at all, let alone a terrorist crime. That is
8 | why I commend, again, the article in yesterday's
9 | New York Times by William Safire. The headline
10 | says it all: "You Are A Suspect." He did mean
11 | each and every one of you.

12 | JUDGE HAIGHT: Thank you. Mr. Chertoff?

13 | PROFESSOR CHERTOFF: Make sure I'm clear
14 | on one thing. What Nadine says is true. I think
15 | ethnic profiling is not something that we do, nor
16 | would it be appropriate or effective.

17 | There are characteristics, however, that
18 | we can look to in identifying people that we should
19 | investigate. For example, I don't think there's
20 | anything wrong with looking at travel patterns,
21 | people who've been in and out of Afghanistan during
22 | certain periods of time. That would be a

1 reasonable and sensible thing to look at. Phone
2 traffic, people who have made calls to certain
3 numbers, that would be a reasonable thing to look
4 at.

5 I don't want to suggest it's somehow
6 impermissible to look at people's actions as a
7 basis for identifying relevant characteristics.

8 JUDGE HAIGHT: Thank you. Professor
9 Stone?

10 PROFESSOR STONE: Both Mike Chertoff and
11 Bill Barr made reference to the notion that critics
12 of the Administration have attempted to extend
13 constitutional rights status to matters of mere
14 convenience which can be restricted.

15 I think this represents not only flawed
16 but dangerous and revealing reasoning, because it
17 assumes that civil liberties is defined by the four
18 corners of the Constitution. When we say civil
19 liberties, we mean constitutional rights only.
20 That has never been true in this country. Civil
21 liberties are far broader than constitutional
22 rights. Historically that's a very important

1 distinction.

2 I just want to give two very simple
3 examples of this. One is the TIPS program, which
4 was proposed by the Attorney General. During World
5 War I the United States had a similar program,
6 which then Attorney General Charles Gregory later
7 concluded was a disaster and a nightmare on the
8 national front because of its effects on individual
9 security and privacy. Attorney General Harlan
10 Fitzstone (phonetic), a Republican, banned the
11 General Intelligence Division of the FBI and put
12 the FBI out of the business of gaining that type of
13 political and non-specifically criminal
14 information.

15 Then again in 1976, after the abuses of
16 the FBI and Cohen Telpro, Attorney General Edward
17 Levy, another Republican Attorney General under a
18 Republican President, put in place the FBI
19 guidelines. Those are not constitutionally
20 required. That's an exercise of judgment and of
21 respect for civil liberties on the part of the
22 federal government. The elimination of those

1 guidelines by Attorney General Ashcroft may or may
2 not violate the Constitution, but it surely
3 violates American civil liberties.

4 JUDGE HAIGHT: Thank you. Attorney
5 General Barr?

6 MR. BARR: I think there's been some
7 confusion that confounds illicit profiling with the
8 kind of rational differentiation that's inherent in
9 criminal investigation. Where you have a criminal
10 predicate, a crime, a bank robbery, or a series of
11 crimes, a series of rapes, drug trafficking,
12 bombings, or what have you, inherent in the
13 investigation of those is extrapolating from the
14 circumstances various characteristics that help you
15 discriminate and narrow the cohort that you have to
16 look at: gender, geography, educational level,
17 various things that help you narrow who you're
18 looking at. That's what criminal investigation is.

19 So if you're looking for drug smuggling
20 by Jamaican posse, you look for Jamaican's coming
21 out of Jamaica landing at certain airports.
22 Improper profiling, at least as it was originally

1 criticized, was the proverbial state trooper where
2 there was no particular criminal predicate. There
3 was no investigation or reaction to a particular
4 crime. It's the proverbial state trooper sitting
5 on the side of the highway munching on a donut. He
6 sees an African-American go by, and reacts just on
7 the basis of the notion that, "Gee, African-
8 Americans may be more inclined to commit crimes
9 generally, I'm going to stop and hassle this
10 person." That's a different cup of tea. That's
11 wrong.

12 But obviously if we're investigating al
13 Qaeda, then in certain cases, ethnic
14 characteristics do help narrow the scope. Are they
15 perfect? No. Yes, they can use other people for
16 their terrorist acts. But in terms of
17 probabilities, someone coming from Yemen is going
18 to pose a greater problem than someone coming from
19 Stockholm. That's why, for example, when we say
20 that certain aliens from six countries should be
21 fingerprinted, that's a perfectly rational thing to
22 do.

1 One of the paradoxes of the liberal
2 approach, because they don't like differentiation,
3 is actually to deny civil liberties broadly in
4 society. So if you have gang violence in a
5 neighborhood, they don't like the cop to go over to
6 the suspected gang member standing on the corner
7 and say move along. They'd rather impose a curfew
8 on the whole city.

9 That's one of the paradoxes of their
10 approach here. They'd rather subject all of
11 society to every inconvenience imaginable rather
12 than have rational investigation.

13 JUDGE HAIGHT: Professor?

14 PROFESSOR BAKER: As Ms. Strossen said,
15 it's very difficult in this setting to go into the
16 great detail that necessarily occurs in all of
17 these cases. But I'd like to point you to Judge
18 Wilkinson's opinions in the two *Hamdi* cases.

19 Here was a case where ultimately the
20 judge sided in part with the government but didn't
21 accept fully the government's position that there
22 is no ability to get into court by Hamdi.

1 It was one of those things that was
2 largely procedural, at least at this stage. First
3 of all, standing and other things. The technical
4 details do really count. The devil is in the
5 details.

6 The ACLU's brief in the next go round is
7 very good at this on talking about the statutory
8 questions. As Professor Stone has pointed out, we
9 do have and can have more liberties other than
10 those in the Bill of Rights. The founders were
11 certainly strong on that. But those are often at
12 the behest of Congress. Those are Congressional
13 matters often, and they should be litigated when
14 there are questions of law. But that's a different
15 question as to whether or not Congress can change
16 those.

17 In the ACLU's brief it says ultimately
18 that illegal combatants, even if Hamdi is an
19 illegal combatant, cannot be incarcerated without
20 going to some kind of trial, because he is entitled
21 to "substantive due process rights." That is
22 beyond anything that we're talking about coming out

1 of Congress. In my view, it's beyond anything that
2 is in the Bill of Rights or the Fourteenth
3 Amendment. Thank you.

4 JUDGE HAIGHT: All right, now we're going
5 to take questions from the audience. I do want to
6 remind you, please make these questions. We're all
7 dying to say something. I am dying to say
8 something, and I won't. So I'm going to start over
9 here on my left. Mr. Gede, make the question,
10 please.

11 MR. GEDE: Hi, Tom Gede, chair of the
12 Federalist Society's Criminal Law Practice Group.
13 For Professor Strossen: Where in the Constitution
14 can you tell me are the guarantees for, and I'm
15 using your words, transparency and, your words,
16 public scrutiny and terrorism investigation or any
17 criminal investigation, and how do you precisely
18 answer the Third Circuit?

19 JUDGE HAIGHT: In a minute.

20 PROFESSOR STROSSEN: Okay, sorry. Where
21 I find it in the Constitution is where Warren
22 Burger said it lay, hardly a card-carrying member

1 of the ACLU, and in the *Richmond Newspaper* case he
2 very forcefully held that the First Amendment
3 contains an implicit right of public access to
4 certain government proceedings under certain
5 circumstances and that this is an essential
6 underpinning not only of freedom of speech, but
7 also indeed of our democratic society.

8 Indeed here at the Federalist Society I
9 could invoke writings of your founding inspirer,
10 James Madison, talking about the essential
11 prerequisite for a democracy of an informed public
12 and the right of we, the people, as the ultimate
13 governors, to have information about the policies
14 that our government is conducting in our names.

15 JUDGE HAIGHT: Thank you. You have a
16 question, sir.

17 AUDIENCE MEMBER: Yes. Attorney General
18 Barr said that under the auspices of *habeas corpus*
19 petition the judiciary can review the President's
20 decision during wartime, that an American citizen
21 is an unlawful combatant if that citizen is
22 apprehended in the homeland, I believe. My

1 question is, is this distinction being used by the
2 Administration in its briefs?

3 JUDGE HAIGHT: Mr. Chertoff?

4 MR. CHERTOFF: The briefs speak for
5 themselves. I would be putting myself at peril if
6 I tried to characterize them. But I do agree there
7 is a limited role. It's not a let's have a do-over
8 and try the case and have discovery. I think our
9 position is based upon a submission that we make
10 often involving, frankly, material that's going to
11 be submitted under seal because it's classified,
12 that suggests that there is a reasonable basis --
13 and I'm using that not as a specific term but in a
14 general sense -- for the determination.

15 It is, as I think the Fourth Circuit has
16 acknowledged, a highly deferential standard. It
17 is, as Bill said, the President's decision. The
18 court has some level of deferential review under
19 the *habeas* standard, but it's not a do-over.

20 JUDGE HAIGHT: Okay, fine, good.

21 MR. MCDONALD: My name is Jim McDonald,
22 and I'm from Arlington, Virginia. Wouldn't this

1 panel be better entitled balancing civil liberties,
2 public safety, and de facto immigration policy,
3 legal and illegal?

4 JUDGE HAIGHT: Anybody want to take a
5 crack at that? No answers? I'm precluded as
6 moderator, so I can't say anything. Well thank you
7 very much. Yes.

8 MS. SHIVLEY: My names Caroline Shivley
9 (phonetic); I'm with Fox News Channel. My question
10 is for Mr. Chertoff. It's a little off topic, so I
11 apologize.

12 MR. CHERTOFF: That's usually a bad sign.
13 That usually means I'm not answering.

14 MS. SHIVLEY: Well, I've got to try. The
15 FBI is warning that al Qaeda may be planning
16 spectacular attacks here at home. Two questions on
17 that. One, can you tell us anything about the
18 intelligence that prompted that, and two, what
19 should we be doing? We as Americans, should we be
20 hiding in our basements or how should we respond to
21 that?

22 MR. CHERTOFF: I don't think I'm here to

1 make news, so I don't think I'm going to talk about
2 it.

3 JUDGE HAIGHT: All right, over here.

4 MR. SMITH: Mark Smith from the New York
5 chapter. My question is directed to Mr. Chertoff.
6 Mr. Chertoff, in light of the facts that we know
7 that Arab males who support fundamentalist Islam
8 from Middle Eastern countries attacked the U.S.S.
9 Cole, committed 9/11, blew up the World Trade
10 Center in 1993, on and on, is it really the Bush
11 Administration's policy that they will not consider
12 racial, ethnic, and nationality characteristics in
13 profiling possible suspects of future terroristic
14 acts?

15 MR. CHERTOFF: I think I want to go
16 back to what Attorney General Barr said. You also
17 have to be very careful about not mixing. People
18 mix ethnic and national together, because we
19 customarily do it when we talk about things
20 domestically. Clearly, we know certain nations are
21 locations where there is a lot of activity in terms
22 of training and support for terrorism. Obviously

1 one is going to look, for example, at people who've
2 traveled in or been residing in Afghanistan or
3 Yemen differently perhaps from someone who's
4 residing in Sweden.

5 On the other hand, if you have someone
6 who is of ethnic dissent or religious background
7 who was born in Minnesota and who's served in the
8 United States Marine Corps and is an Assistant
9 United States Attorney, we're not going to say,
10 "Well that person's ethnic background means we're
11 going to suspect them." Even perhaps more
12 importantly, for anybody who's lived through John
13 Walker Lindh and Richard Reed, I think we would be
14 playing into the hands of our enemies if we were to
15 suggest that they don't enlist people who are of
16 different appearance in their schemes.

17 But I do think, on the other hand,
18 obviously, people who've been in a particular
19 location where there are camps, that is a relative
20 characteristic. People who adhere to certain
21 views, if they adhere to views that suggest
22 violence or a violent attack on the United States,

1 clearly that's relevant. I think it's a little bit
2 more subtle than a general question allows for.

3 JUDGE HAIGHT: Yes, sir.

4 MR. WALPIN: Gerald Walpin, member of the
5 Board of Visitors. I have a question for Professor
6 Stone. You went through the usual litany of what
7 President Adams, President Lincoln, President
8 Wilson, and President Franklin Roosevelt did in
9 response to the threats to the structure of America
10 and said, in essence, that in retrospect looking at
11 them now you wish that those presidents hadn't
12 decided that that was necessary.

13 My question of you is, given the fact
14 that two excellent, high-reputation Supreme Court
15 justices have said that the Constitution is not a
16 suicide pact, how can you be certain that if those
17 presidents hadn't taken those actions, we would be
18 able to be here today practicing the freedom that
19 we are practicing?

20 PROFESSOR STONE: One of the difficulties
21 of making judgments like this is, of course,
22 they're counter-factual. There's no way one can

1 say that history would have turned out the same way
2 it did if we hadn't done any of the things that we
3 did, those which were obviously related and those
4 which were even not obviously related to the
5 conclusions. But I think one can look back on the
6 events, understand with the benefit of hindsight,
7 with the benefit of much greater information about
8 what the decisions were about behind the scenes,
9 about what motivated the decisions, and about what
10 kind of threats were actually posed, and make those
11 judgments reasonably responsibly.

12 The Constitution, of course, is not a
13 suicide pact. I don't think anyone who understands
14 any of those historical instances would believe
15 that there would have been a significant difference
16 in the historical outcome had we not done any of
17 those things.

18 MR. CHERTOFF: Can I just add one thing?
19 I think that is a very important point that's made
20 here. I guarantee you hindsight will always give
21 you a more precise assessment of what should be
22 done than foresight. But in that is the principle

1 | problem we face, because it's where the risk of
2 | error falls. With the benefit of hindsight, you
3 | can calibrate exactly what was the threat and what
4 | wasn't the threat. Looking forward and operating
5 | in real time you don't really know. The question
6 | becomes, where do you allow the risk of error to
7 | fall? When the risk of error can involve the loss
8 | of thousands and millions of lives, that has to
9 | inform how you deal with a decision-making process
10 | that takes place with a lot of uncertainty about
11 | the fact.

12 | PROFESSOR STONE: Can I add one final
13 | thought to that?

14 | JUDGE HAIGHT: Yes, you can.

15 | PROFESSOR STONE: What Mike says, of
16 | course, is exactly right. It's very difficult to
17 | make these decisions in the moment. My point is
18 | not that the decision on any particular proposal
19 | necessarily is dictated by history, but what is
20 | dictated by history is a recognition that we do
21 | have, in fact, a natural and understandable bias in
22 | these circumstances to error in a particular

1 direction. We act on this in the law all the time.
2 We act on this with proof beyond a reasonable
3 doubt, with rules of evidence, with all sorts of
4 presumptions about when we reverse and don't
5 reverse different judgments. All I'm saying is we
6 simply need to incorporate a similar understanding
7 of our own behavior in making the judgments as best
8 we can, balancing the risks in the setting, knowing
9 that we are subject to a certain error bias.

10 JUDGE HAIGHT: Thank you. The gentleman
11 there.

12 MR. LYNCH: Tim Lynch with the Cato
13 Institute. My question is for Mr. Chertoff. My
14 question goes to the commitment of the
15 Administration to the rule of law. Some time ago
16 the Foreign Intelligence Surveillance Court took
17 the extraordinary step of barring an FBI agent from
18 ever appearing before the Court again, because he
19 had repeatedly filed false and misleading
20 affidavits before the Court. This has happened
21 some time ago. My question is, what action, if
22 any, has the Administration taken against this FBI

1 agent?

2 MR. CHERTOFF: Let's talk about the rule
3 of law. I've got classified information; I've got
4 the Privacy Act which prohibits me from talking
5 about individuals in public. So I'm going to
6 adhere to the rule of law and also my desire not to
7 have my bar ticket pulled, and I'm not going to get
8 into it.

9 JUDGE HAIGHT: All right. The gentleman
10 over there.

11 AUDIENCE MEMBER: I actually agree with
12 virtually everything Mr. Chertoff said, but I'm
13 somewhat concerned with two particular policies:
14 material witness detention and enemy combatants.
15 To echo something that Attorney General Barr said
16 with regard to the airplanes, we don't think it's
17 very tempting for the government to go out there
18 and start shooting down airplanes. That's why we
19 don't worry that a decision today will lead to more
20 such decisions tomorrow, because it's just hard to
21 imagine why the President would want to do that.

22 Unfortunately, it's not hard to imagine a

1 different administration at some point deciding to
2 try to suppress domestic dissent. A material
3 witness statute, which as I understand it, does not
4 require anything beyond a showing of potential
5 relevance to the grand jury in some sense, or need
6 to detain the person to appear before the grand
7 jury, and detention of alleged enemy combatants who
8 are U.S. citizens, subject to a very differential
9 standard of review seem --

10 JUDGE HAIGHT: What is your question?

11 AUDIENCE MEMBER: -- seem really quite
12 troublesome. Should we or should we worry about
13 the risk that these particular provisions are going
14 to be abused?

15 MR. CHERTOFF: I think you ought to draw
16 a line of comfort from the historical record on
17 this. We've had material witness warrants for
18 ages. They've been used in a wide variety of
19 settings, including garden variety drug cases and
20 whatnot and also in some former domestic terrorism
21 cases back when you had the Brinks robbers. I
22 don't think it's been subject to abuse. Of course

1 it's always subject to court supervision. The
2 judge is always involved, and this person has a
3 lawyer. So I don't think that's going to trouble
4 anybody.

5 Likewise, we've dealt with the issue of
6 enemy combatants. There is a case, *In re Territo*,
7 I think it's called, that deals with the course of
8 the war. For the same reasons that you envision a
9 president quite rightly would not have an incentive
10 to start shooting down planes, an administration
11 would not have an incentive to start wholesale
12 locking up or abusing the power with respect to
13 enemy combatants.

14 All these powers, all the government's
15 powers, are always held in trust. I think with
16 respect to anything you can always hypothesize some
17 bad actor who's going to abuse it. I do think that
18 the system, even with extreme deference, is always
19 calibrated to correct itself. Maybe not instantly,
20 but in a fairly reasonable period of time. So I
21 think we should be pretty comfortable.

22 JUDGE HAIGHT: Yes, sir.

1 MR. TAYLOR: I'm Stewart Taylor, National
2 Journal, with yet another question for Mr.
3 Chertoff. Apologies to the rest of the panel, but
4 he has more power than you do. This involves
5 profiling and first what might be called religious
6 profiling.

7 Now that the Levy guidelines have been
8 modified and FBI agents are allowed to prowl around
9 places looking for possible terrorist activity,
10 would it be wrong for them to pay disproportionate
11 attention to say mosques as distinguished from
12 Unitarian Universalists?

13 Second, on airline security profiling,
14 where ethnicity may be hard to distinguish from
15 nationality, Mohammad Atta, I think, did not
16 advertise that he was from Egypt when he went to
17 check on to those planes. It could have been
18 determined that he appeared to be from the Middle
19 East. Would it have been wrong to have an airline
20 security profiling system that paid special
21 attention to him because he appeared to be from the
22 Middle East?

1 MR. CHERTOFF: As I say, you've got to
2 look at specific characteristics. We spent a lot
3 of time there, so I don't want to repeat myself. I
4 do think, though, with respect, for example, to the
5 airline issue -- and I come back to Richard Reed
6 only because I think it's an argument that is often
7 under-appreciated here -- and we used to see it in
8 the turnpike cases. If you were going to move a
9 large load of drugs up the turnpike, you'd be
10 pretty stupid to take someone who dresses like a
11 gang banger and fits a standard stereotype. You'd
12 take grandmothers and put them in minivans and have
13 them bring large loads up.

14 So for us to simply say let's have
15 appearance be the factor that controls this is to
16 invite people who are very sensitive to our
17 vulnerabilities deploy the resources based not on
18 gross generalization but on specific information
19 and specific facts.

20 JUDGE HAIGHT: Professor Strossen, do you
21 want to jump in here?

22 PROFESSOR STROSSEN: I was very much in

1 agreement.

2 I think the common theme that has
3 characterized both of Michael's recent responses on
4 this issue are consistent with the basic principles
5 that I laid out: that one should deploy one's law
6 enforcement resources effectively and also in a way
7 that's respectful of civil liberties by looking at
8 people on the basis of how they behave, not on the
9 basis of who they are. Everything Michael has said
10 is consistent with that in a way that advances both
11 security and liberties.

12 JUDGE HAIGHT: I should stop the panel
13 right now with it, but we do have one more
14 question. Yes?

15 MR. OTIS: Thank you. My name is Bill
16 Otis. I'm an over-the-hill federal prosecutor
17 currently pretending to be an adjunct law
18 professor. My question is for Professor Stone and
19 Professor Strossen about who gets to decide.

20 MR. OTIS: I want to build on a
21 hypothetical that Attorney General Barr started off
22 with. That is, a situation where the President

1 | believes that a plane has been hijacked and is
2 | headed for the Capital. Let's say the plane is out
3 | over the heartland, over Des Moines. It's got a
4 | couple of hours before it gets there. A woman
5 | whose husband is on the plane, whose husband is an
6 | entirely innocent American citizen in American
7 | airspace, runs off to the local federal district
8 | judge and says, "I think the President's
9 | information is all wrong. My husband's civil
10 | liberties are about to end. As a matter of fact,
11 | everything about him is going to end, because he's
12 | going to be killed when the President orders the
13 | missile to shoot down this plane."

14 | My question for Professors Strossen and
15 | Stone is, putting entirely to one side the
16 | practical difficulties of resolving that, is that
17 | woman's suit, is that wife's suit to enjoin the
18 | President from that missile strike even in
19 | principle judiciable, or is this the kind of thing
20 | even knowing that they have the rights and the life
21 | of an entirely innocent, indeed 200 entirely
22 | innocent American citizens at stake, is that not

1 | judiciable and entirely for the President to
2 | decide?

3 | If it's not judiciable, why not?

4 | PROFESSOR STROSSEN: I'll defer that
5 | academic to my academic colleague, Geof Stone,
6 | because I really don't want to spend time on
7 | hypotheticals. I kept trying to bring to your
8 | attention the very real situations that do not come
9 | anywhere close to those extreme hypotheticals where
10 | very real people are losing liberty without any
11 | evidence that it is necessary, or in some cases
12 | even effective, to advance security. So my hat's
13 | off to you, Geof, to pursue the hypothetical.

14 | PROFESSOR STONE: Briefly. I love
15 | hypotheticals. The hypothetical that Bill began
16 | with that treated discretion is sort of a first-
17 | year criminal law hypothetical. Why do we allow a
18 | police officer to shoot a suspect rather than let
19 | him go free and hope we can catch him at some point
20 | in the future and bring him to trial? This is one
21 | of those nice conundrums that there's not a good
22 | answer to. There's a difference between the

1 | judicial process once we have enabled ourselves to
2 | get into it and the realities of dealing with a
3 | situation on the moment.

4 | One could change that hypothetical to
5 | make it judicable if you keep stretching out the
6 | time period in the hypothetical circumstances, but
7 | I would certainly agree that in those examples you
8 | wouldn't expect a court to intervene. I would
9 | suspect probably in yours one wouldn't either,
10 | because it would be seen as essentially an on-the-
11 | moment decision.

12 | On the other hand, you could presumably
13 | sue the President afterwards. There would be
14 | immunities, of course, but you could presume to sue
15 | the President afterwards if there were proved to be
16 | a violation of constitutional rights in the
17 | decision to do that. But that would be extremely
18 | unlikely.

19 | JUDGE HAIGHT: I want to thank you all
20 | for coming. I think balancing these concepts will
21 | certainly be a responsibility of you lawyers and
22 | judges. Also, I think a special thank you to Dean

1 Reuter who has organized these great panels. Thank
2 you.

CORPORATE GOVERNANCE ISSUES TO BE DISCUSSED AT SEMINAR

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Body

McGuireWoods LLP and the Richmond Bar Association are sponsoring the 2002 Corporate Governance Seminar to help area businesses and their lawyers understand new SEC regulations and the recently passed Sarbanes-Oxley Act.

The seminar will take place Tuesday at the Omni Richmond Hotel.
(See details under Tuesday events, This Week.)

William P. Barr, who served as attorney general under former President George Bush and worked in President Reagan's domestic policy office, will be the featured speaker.

He is currently executive vice president and general counsel of Verizon Communications Inc.

The seminar will address a wide range of corporate governance topics including insider activities, corporate compliance, internal investigations, criminal sanctions, ethics issues and the Sarbanes-Oxley Act of 2002.

A McGuireWoods lawyer experienced in each topic area will give a brief presentation in a panel moderated by Cliff Cutchins, chairman of the corporate services department at McGuireWoods and former general counsel of the James River Corp.

Each presentation will be followed by a question- and-answer session.

"There has been a big change in the ways companies will have to address corporate governance, and this is an opportunity to talk about that," Cutchins said.

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June 29, 2001

Verizon Turns Sights To FCC In Quest For Deregulation

With hope dimming that the Internet Freedom and Broadband Deployment Act (HR 1542) will become law, Verizon Communications, Inc., is turning its attention to the FCC. It wants to ensure that "voice rules" aren't applied to its new broadband services, says William P. Barr, the company's executive vice president and general counsel.

The FCC has "created different rules for different players," Mr. Barr said at a June 28 luncheon sponsored by the Manhattan Institute for Policy Research. "This seriously undercuts the incentive for investment," he said.

Incumbent local exchange carriers' (ILECs') preferred vehicle for deregulation of their broadband services has been HR 1542, which would exempt broadband offerings and facilities from network unbundling and service resale requirements.

But with the bill facing substantial opposition in the Senate-- particularly from Commerce, Science, and Transportation Committee Chairman Ernest F. Hollings (D., S.C.)--the FCC seems likely to become the target of the ILECs' "Plan B."

During a recent press briefing, Ivan Seidenberg, Verizon's president and co-chief executive officer, and Thomas J. Tauke, senior vice president-external affairs and public policy, said they still hoped Congress would pass HR 1542. Nevertheless, they said the company was planning to ask the FCC "in the second half of this year" to take steps to reduce regulation of Verizon's broadband services (TR, June 25).

Mr. Barr last week said that FCC Chairman Michael K. Powell was "not part of the problem, but he can be part of the solution." The FCC can take the necessary steps to give ILECs the incentives to deploy broadband services, even "without legislation," he said.

Verizon, Mr. Barr said, is seeking a "strong sign" from the Bush administration in favor of a technology-neutral approach for spurring broadband service deployment.

Mr. Barr did not say what that sign might be, but he pointed to the lightly regulated wireless industry as a model for how broadband services should be handled. "We've seen huge price drops, rapid market penetration, and a cornucopia of new products," he said.

"The broadband market is naturally competitive, if left alone," he added. But competition in that market could be jeopardized if existing policies remain in place and protect the early lead developed by cable TV companies that have deployed cable modems, he said. The government should "resist the temptation" to pick winners and losers in the broadband market, Mr. Barr said.

TR Daily, June 29, 2001 20010629 TR Daily -->

--- **Index References** ---

Company: VERIZON COMMUNICATIONS INC; BELL ATLANTIC CORP; MCI INC; VERIZON LABORATORIES; FEDERAL COMMUNICATIONS COMMISSION; CELLCO PARTNERSHIP

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Word Count: 509

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NewsRoom

FCC FAULTED FOR LACK OF BROADBAND DEPLOYMENT

WASHINGTON TELECOM NEWSWIRE

August 21, 2000, Monday

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Section: TODAY'S NEWS

Length: 1063 words

Body

ASPEN, Colo.-- Participants at the Progress & Freedom Foundation's Aspen Summit on "Cyberspace and the American Dream" here had different opinions today on who's to blame for the inability of most consumers to get broadband at home. For Verizon Exec.Vp William Barr, the fault lay squarely on the shoulders of the FCC for its implementation of the local phone competition provisions of the 1996 Telecom Act. He particularly blamed the FCC for its continued regulation of the Bell companies in high-speed data provision. "The greatest danger to competition...is regulators," Barr said as he began a lengthy diatribe against the FCC, lingering on its implementation of unbundling rules and failure to reform universal service. He accused the agency of being "phonecentric," obsessed with an outdated commitment to local phone competition at the expense of developing industries: "You would think we're back in the 1970s." The FCC should focus on creating "intermodal" competition between phone, cable, wireless and other industries rather than trying to force phone competition, Barr said. Instead, he said, "the FCC says cable is a good monopoly, because it can compete with local phone companies," and therefore doesn't burden it with regulations, while the phone industry remains "a bad monopoly." Whereas the agency has been careful to leave the cable industry an incentive to roll out cable modem service, Barr said, it expects Bell companies to provide DSL with no assurance of adequate returns. The FCC's policies were defended by Office of Plans & Policy Chief Robert Pepper, but he often found himself in a hostile environment. Pepper said fiber miles have more than doubled each year as well as increased speed, and the real bottleneck lies locally, not in the Internet backbone. However, Manhattan Institute's Peter Huber said that's "junk economics," since the rest of the Internet economy has been growing even faster. He said the Telecom Act gave the FCC ample authority to "dismantle" categories such as Title 2 vs. Title 6 regulation, but there has been "zero desire at the FCC to do that." Instead, he said, the Commission has "gone to the ends of the Earth...to call cable Internet service a nothing" because it can't fit in either artificial category. Brookings Institution Senior Fellow Robert Crandall, although somewhat supportive of the FCC's overall approach, said it's "unsupported" that the agency has aided the development of DSL through unbundling requirements, since few data CLECs appeared to take advantage of the rules. Intel Dir.-Communications Policy Peter Pitsch said the high-tech industries would like to see more competition between phone and cable companies, and they wish the FCC would relieve the Bells of data line unbundling rules. (WTN 0842-00)

Load-Date: August 22, 2000

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Thank you all tonight for your support of St. Aloysius.

I know many of you have been long time supporters of the school, and have played a critical role in its success. It is privilege for me to join with you.

I want to especially thank my colleagues at Verizon who took time to be here. I have worked many places over the years, and I can tell you that no one could hope for a finer group of colleagues. Thanks for coming. I am proud to have you as friends, and I know we are all proud to be part of Verizon, a company so deeply involved in supporting worthy causes like the one we are here tonight to support.

I also want to say how grateful I am to all our friends in the law firms that are here tonight. One of the great pleasures of being GC is the chance to work with such an outstanding group of law firms from around the country. You are truly our partners; we have been through a lot together over the years and we deeply value our relationships. Thank you for supporting this dinner and for being here.

And the same is true of our friends from Bear Stearns and Ernst & Young.

While this dinner is cast as honoring me, we all know what is really about – honoring an exceptional school and a very special place, a place that changes lives --St. Aloysius.

The talented students we have seen here tonight should remind us why it is so important for us to support St. Aloysius.

This is a school that takes kids, who don't have resources and would otherwise be at risk, and provides them with an outstanding education – an opportunity to develop their intellectual and artistic abilities; an opportunity to develop the communications skills so important to opening doors in the future; and perhaps most important of all provides a framework and community which fosters respect for others, self-discipline and strong character.

We in America enjoy unprecedented freedoms. We have the freedom to succeed to dizzying heights; we have the freedom to fall to desperate lows. Our system accepts wide degrees of disparity between the top and the bottom. This gives our society its extraordinary dynamism.

But the thing that legitimates this is the principle that everyone gets a fair chance to play. Everyone should get a shot at bringing their talents and character to the game and finding a productive place in society.

In our society, it is through Education that we provide that Fair Opportunity.

The young people who don't have wealth or privilege deserve a shot. They deserve more than people just going through the motions and calling it education. They deserve real excellence in education. They deserve the real cultivation of their aptitudes and character.

All too often, the public school system is not doing the job. The only real alternative for kids and parents who are being let down is the Catholic school system.

Frankly, the Catholic schools have broken the code. At about half of what it costs for a public school education, Catholic schools are producing results.

I am on the board of the Inner-City Scholarship Fund, which was founded by the Archdiocese to raise funds to fill the gap between Catholic school tuition and the cost of educating our inner-city students. We have 115 schools; over 43,000 students; 93% of our students are minority; 64% are near or below the poverty level. Yet over 88% graduate, compared to 54% for the public schools. And when they graduate, they are prepared: over 97% go on to college. 71.6 % of Catholic High School graduates win Regents Diplomas, compared to 18% for Public High Schools.

There are some who suggest that the Catholic school system is so successful because it selectively takes the cream of the crop. That is not true. The demographics are the same. I know Cardinal Egan has said he will take the bottom 10% of the public schools and still have the same result. No one has taken him up on that challenge; and that is because he would win.

If a public school principal or administrator got the results that even the average Catholic school got, they would get the secular version of Sainthood in this city. We would not hear an end of it.

Unfortunately, Catholic schools rarely get the recognition they deserve.

And that is why I would like to thank Charlie Millard for asking me to be the honoree at this dinner. Because it gives me a chance to pay tribute and support St. Aloysius, and also to salute President Laurel Senger and Principal Richard Burke and the remarkable teachers and staff who have built up this great institution.

St. Aloysius is not just your average Catholic school. It is exceptional – not only in the statistical results, but in the strong sense of community that envelops the school.

A lot of us think we have hard jobs. But I think the courageous folks at St. Aloysius have among the most challenging vocation of all – certainly one of the most important. They are rolling up their sleeves and taking responsibility for preparing these at risk children so they can have their shot.

It is Holy work. God Bless them, and God Bless all of you who support them.

No Headline In Original

Legal Times

September 20, 1999 Monday

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LegalTimes

Section: Vol. 22; No. 18

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Body

Calendar

Tuesday SEPT. 21

Seize the Future, a continuing legal education teleconference on the future of the legal profession and the role of the multidisciplinary practice, sponsored by the American Bar Association's Law Practice Management Section. Featuring Stefan Tucker of Tucker & Flyer and Michael Harnish of Dickstein Wright. Cost: \$115. Registration and information: (800) 285-2221.

Wednesday SEPT. 22

From Gold Nuggets to Silicon Chips, the 1999 Federal Bar Association's national meeting, continuing through Sept. 25, sponsored by the Sacramento Chapter of the FBA. Featuring seminars on property rights vs. wildlife and environmental law, Internet law, and tax reform law. Cost: \$185 to \$240. Location: Hyatt Regency, Sacramento. Registration and information: 785-1614.

12th Annual Supreme Court Media Briefing, a breakfast event sponsored by the National Chamber Litigation Center. Featuring Roy Englert Jr. of Mayer, Brown & Platt and Wiley, Rein & Fielding's Clifford Sloan. Cost: Free. Location: U.S. Chamber of Commerce Building, 1615 H St., N.W. Registration and information: 463-5337.

Telecommunications Regulatory Reform, part of a breakfast series at the Tech Center, sponsored by the Information Technology Association of America. Featuring William Barr, senior vice president and general counsel of GTE and a former U.S. attorney general. Cost: \$15. Location: George Mason University School of Law, Room 120, 3401 N. Fairfax Drive, Arlington, Va. Registration and information: <http://techcenter.gmu.edu>.

Maryland Sales and Use Tax: A Beginner's Course, a one-day seminar sponsored by Lorman Education Services. Featuring Herman Rosenthal and Stephanie Wagner of Baltimore's Whiteford, Taylor & Preston, and D.C. solo practitioner Stephen Feldman. Cost: \$199. Location: Truffles at the Belvedere, One E. Chase St., Baltimore. Registration and information: (715) 833-3959.

Thursday SEPT. 23

Consolidated Tax Return Regulations, a two-day seminar, continuing through Sept. 24, sponsored by the American Bar Association Section of Taxation, American Law Institute-ABA Committee on Continuing Professional Education.

No Headline In Original

Featuring Steptoe & Johnson's Mark Silverman, planning chair. Cost: \$695. Location: Wyndham Hotel, 1400 M St., N.W. Registration and information: (800) CLE-NEWS.

The Future of the Law Business--Views From the Press, a luncheon and panel discussion for marketing professionals, attorneys, and students, sponsored by the Mid-Atlantic Chapter of the Legal Marketing Association, Legal Times, and the Washington Business Journal. Featuring Aric Press, editor in chief of The American Lawyer; Jennifer King, managing editor of Corporate Legal Times; Richard Barbieri, editor in chief of Legal Times; Bob Starzynski, editor of Tech Capital; Eamon Javers, editor-in-chief of Washington Business Forward; Beth Zacharias, editor of Washington Business Journal. Cost: \$45 members; \$55 nonmembers; \$15 students. Location: The National Press Club, The Holeman Lounge, 529 14th St., N.W., 13th floor. Registration and information: 828-3616.

The Department of Transportation's Internet-Accessible Dockets Seminar, an afternoon seminar, sponsored by the Federal Bar Association's Transportation Law Section. Featuring Neil Eisner, assistant general counsel; Dorothy Walker, dockets manager; and Andrea Jenkins, dockets team leader. Cost: \$20 members; \$30 nonmembers. Location: USDOT Headquarters, Room 2201, 400 Seventh St., S.W. Registration and information: 785-1614.

Federalizing Criminal Law, an evening reception sponsored by Washington College of Law. Featuring former Attorney General Edwin Meese. Cost: Free. Location: American University, Washington College of Law, 4801 Massachusetts Ave., N.W., Room 603. Registration and information: 274-4263.

Saturday SEPT. 25

Legal Issues Affecting the Internet, a continuing legal education class, sponsored by the Federal Communications Bar Association and Catholic University's Columbus School of Law. Featuring topics on the technical aspects of the Internet that shape key policy issues. Plus, industry representatives will debate the forced access issue that concerns competitors' access to cable broadband networks. Cost: \$50; \$35 FCBA members and CUA alumni. Location: Columbus School of Law, 3600 John McCormack Road., N.W. Registration and information: 319-5670.

Sunday SEPT. 26

Sixth Annual Barbecue With a View, an evening event to benefit the Reporters Committee for Freedom of the Press. Featuring entertainment by the Capitol Steps. Cost: \$50 per person. Location: Freedom Forum World Center, 1101 Wilson Blvd., Rosslyn, Va. Registration and information: (703) 807-2100.

Tuesday SEPT. 28

Volunteer Training, two evenings of training, continuing Sept. 30, for attorneys and attorney-paralegal teams who want to volunteer for the Washington Legal Clinic for the Homeless, hosted by Kirkpatrick & Lockhart. Cost: Free. Location: Kirkpatrick & Lockhart, 1800 Massachusetts Ave., N.W. Registration and information: 872-1927.

Thursday SEPT. 30

Charting Your Own Course: A Time For Action--Minority In-House Counsel Career Conference, a three-day seminar, continuing through Oct. 2, sponsored by the National Bar Association and the American Corporate Counsel Association. Featuring Werten Bellamy Jr., corporate counsel of American Home Products Corp.; Marcia Marsh-Goffney, managing counsel of Dow Corning Corp.; Harvard Law Professor David Wilkins; and others. Cost: \$450. Location: Hyatt Reston Town Center, Reston, Va. Registration and information: (610) 902-5272.

ERISA After 25 Years, a two-day conference, continuing through Oct. 1, to examine policy considerations affecting the private retirement system, sponsored by the American Law Institute-American Bar Association Committee on Continuing Professional Education. Featuring such topics as ERISA then and now, government vs. private enforcement, and how pensions affect wealth accumulation. Cost: \$695. Location: Grand Hyatt Hotel, 1000 H St., N.W. Registration and information: (800) CLE NEWS.

No Headline In Original

Take a Killer! Adverse Deposition, a one-day seminar, sponsored by and featuring Robert Musante, a solo practitioner in Walnut Creek, Calif. Musante, a teacher of trial advocacy and deposition skills, will address such issues as pressure points, looping, and firewalling. Cost: \$225 to \$250. Location: District of Columbia Bar, 1250 H St., N.W. Registration and information: (925) 946-9177.

The Environmental Implications of the Y2K Bug: How to Avoid Getting Stung, a brown-bag seminar, sponsored by the Federal Bar Association's Environment, Energy, and Natural Resources Section and the Environmental Law Institute. Featuring Gary Jones, USEPA Office of Regulatory Enforcement; Jerry Poje, U.S. Chemical Safety and Hazard Investigation Board; and Martha Allbright, counsel, Senate Commerce Committee. Cost: \$5 FBA/ELI members; \$10 nonmembers. Location: FBA, 2215 M St., N.W. Registration and information: 785-1614.

Working With Union Talent, an evening panel on how to satisfy the requirements of unions and guilds, sponsored by the D.C. Bar's Arts, Entertainment, and Sports Law Section and Washington Area Lawyers for the Arts. Featuring Debby Buchholz, lawyer for the Kennedy Center; George Cohen of Bredhoff & Kaiser; and Melisse Lewis of Discovery Communications. Cost: \$40 for section or WALA members; \$10 for WALA student and artist members; \$50 nonmembers. Location: Charles Sumner School, 1201 17th St., N.W. Registration and information: 393-2826.

Women's Bar Association Fall Get-Together, an evening gathering, sponsored by the Litigation Forum of the Women's Bar Association. Featuring drinks and hors d'oeuvres. WBA members and nonmembers alike are invited. Cost: \$5. Location: Williams & Connolly, 725 12th St., N.W., Roof Top Terrace. Registration and information: 434-5710.

Tuesday OCT. 5

Beyond Prohibition: An Adult Approach to Drug Policies in the 21st Century, a daylong seminar, sponsored by the Cato Institute. Featuring Gov. Gary Johnson of New Mexico; Steven Duke, professor, Yale Law School; David Klingler, criminology professor, University of Missouri; Daniel Polsby, professor, George Mason University School of Law; and Timothy Lynch, director of Cato's Project on Criminal Justice. Cost: \$80; \$60 academic or nonprofit. Location: Cato Institute, F.A. Hayek Auditorium, 1000 Massachusetts Ave., N.W. Registration and information: 218-4633.

Wednesday OCT. 6

Commercial Contract Negotiations, a two-day course, continuing Oct. 7, on how to manage the negotiations process from planning and preparation through final agreement. Sponsored by Federal Publications Seminars. Featuring Eric Drattell, senior counsel of Sun Microsystems, on negotiations and dispute resolution, management techniques, and contract law. Cost: \$895. Location: Sheraton National Hotel, 900 S. Orme St., Arlington, Va. Registration and information: 337-7000.

The Basics of Commercial Contracting, a two-day program, continuing Oct. 7, on the foundations of commercial contracting and on the contents and practical impact of the Uniform Commercial Code. Sponsored by Federal Publications Seminars. Featuring Kenneth Martin and Jennifer Adams of Martin & Rylander. Cost: \$895. Location: Radisson Barcelo, 2121 P St., N.W. Registration and information: 337-7000.

Settling Insurance Claims, a breakfast briefing, sponsored by McKenna & Cuneo. Featuring McKenna & Cuneo's Robert Carter Jr., Stephen Goldman, Andrew Reidy, and others. Cost: Free. Location: McKenna & Cuneo, 1900 K St., N.W. Registration and information: 496-7176.

Thursday OCT. 7

Personnel Law Symposium, a two-day program, continuing Oct. 8, on how to successfully handle employment law controversies, with special emphasis on legal and practical issues arising from sexual harassment claims and the Americans With Disabilities Act. Sponsored by Wake Forest University School of Law (CLE). Featuring Gerald Hartman, Gregory Homer, and Alisa Reff of Swidler Berlin Shereff Friedman. Cost: \$490. Location: Loews L'Enfant Plaza Hotel, 480 L'Enfant Plaza, S.W. Registration and information: (336) 758-4550

No Headline In Original

Annual Fall Estate Planning Practice Update, a live afternoon satellite program particularly for practitioners at an intermediate or higher level in estate planning and wealth transfer taxation. Sponsored by the American Law Institute-American Bar Association Committee on Continuing Professional Education. Topics include the charitable split dollar after Notice 99-36, the Federal Trade Commission vs. affordable media, and postmortem estate freezes involving family limited partnerships and other techniques. Cost: \$165. Location: The Bar Association of the District of Columbia, 1819 H St., N.W. Registration and information: (800) CLE-NEWS, Ext. 7000.

Wednesday OCT. 13

Handling Whistleblower and Retaliation Allegations, a morning how-to course for government contractors and other employers, sponsored by Wiley, Rein & Fielding. Featuring Rand Allen, chairman of the firm's government contracts practice and chairman of the American Bar Association's Section of Public Contract Law; Sam Walker, chairman of the firm's employment practice; and Biz Van Gelder, former deputy chief, Civil Division, U.S. attorney for the District of Columbia. Cost: Free. Location: The Ritz-Carlton, 1700 Tysons Blvd., Plaza Room, 6th floor, McLean, Va. Registration and information: 719-7041.

Friday OCT. 15

Legal Symposium, a symposium sponsored by the American Society of Association Executives. Cost: \$225 members; \$325 nonmembers. Registration and information: 775-0509.

Saturday OCT. 16

Small Housing Providers and Their Tenants--Practical Advice on Laws and Regulations Governing Rental Real Estate in D.C., a seminar sponsored by the Rental Housing Committee of the D.C. Bar's Real Estate, Housing, and Land Use Section. Featuring such topics as how to comply with D.C.'s rent control law and how the Landlord and Tenant Court operates. Cost: Free. Registration and information: 626-3463.

Sunday OCT. 17

1999 Annual Corporate Governance Review Meeting, a three-day conference, continuing through Oct. 19, sponsored by the National Association of Corporate Directors. Seminars and workshops on top issues in corporate governance, CEO performance in shareholder and stakeholder relations, and the role of the board in strategic planning. Cost: \$125 to \$625. Location: The Willard Inter-Continental Hotel, 1401 Pennsylvania Ave., N.W. Registration and information: 775-0509.

Wednesday OCT. 20

Avoiding Liability in the Workplace, a two-day seminar, continuing Oct. 21, for legal counsel, business managers, and others involved with labor issues, sponsored by Federal Publications Seminars. Featuring Richard Block and Andrew Bernstein of Winthrop, Stimson, Putnam & Roberts. The seminar will touch on such subjects as violence in the workplace, preventing sexual harassment and discrimination, and hiring issues. Cost: \$895. Location: Sheraton National Hotel, 900 S. Orme St., Arlington, Va. Registration and information: 337-7000.

Friday OCT. 22

Political Activity 2000: What Washington Reps and Counsel Need to Know About Federal Election Law and Lobbying Regulation in This Campaign Cycle, a timely briefing conference, sponsored by Glasser LegalWorks Seminars, American League of Lobbyists, and Roll Call. Featuring Wiley, Rein & Fielding's Trevor Potter, counsel to McCain 2000; Hon. Bill Paxon, senior adviser, Akin, Gump, Strauss, Hauer & Feld; and Scott Thomas, Federal Election Commission chairman. Cost: \$795. Location: Swissotel Washington-The Watergate, 2650 Virginia Ave., N.W. Registration and information: 337-7000.

Send notice of your events to Kate Ackley at Legal Times, 1730 M St., N.W., Suite 802, Washington, D.C. 20036. Items are included, space permitting, if they are received at least one week prior to the date of the event.

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ON THE DAIS: Law at the top: Attorneys general swap memories; AMERICAN BAR ASSOCIATION: 1999 Convention

The Atlanta Journal and Constitution
August 10, 1999, Tuesday,, Home Edition

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Section: News; Pg. 11A

Length: 608 words

Byline: Colin Campbell, Staff

Body

The seven men in dark suits who sat on stage Monday morning at the Carter Center must have impressed at least part of their audience as object lessons in how much people flatten out as they age.

Once, these men --- all former U.S. attorneys general --- were powerful, colorful, feared, closely watched, in the news, politically charged, admired, distrusted. On stage, though, retelling stories and swatting softballs at a forum during the American Bar Association's annual convention, every gray AG from Richard Kleindienst to Benjamin Civiletti, Griffin Bell to Edwin Meese, seemed almost uniformly moderate and wise.

Constitution

It was easy to forget that Bell, for example, had an awkward time getting confirmed by the Senate. It was easy to forget how much some people disliked Meese; what a roller coaster life could be at President Nixon's Justice Department; how many political scandals and special prosecutors we have seen.

There were only hints of the job's risks, fire and contingency:

"The year I was attorney general, before I resigned," recalled Kleindienst, "was the worst year of my life." (He took office five days after the Watergate break-in.)

"We grew up nine miles apart in South Georgia," Bell said of himself and President Carter. "So in a way I was an accident of geography."

"No, not Iran-Contra," said Civiletti, Carter's second attorney general, correcting a weird slip. He'd just confused a later administration's crisis with one of his own. "The Iranian hostage crisis."

"I discovered in a closet," said William Saxbe of his year as Nixon's last attorney general, "some file cabinets that had heavy chains and locks on them. "

They turned out to contain files on an FBI scheme "to entrap people into violations of law" --- complete with rumor-spreaders and worse. J. Edgar Hoover, longtime director of the FBI, "did terrible things" and "ruined the lives of ordinary people," Saxbe said.

The profusion of federal law enforcement agencies since then excited serious disapproval. Bell (who once told me he thought the Immigration and Naturalization Service should be abolished) wasn't alone in arguing that less professional agencies than the FBI had helped spark several disastrous screw-ups, including Waco.

"One of the problems with all of these agencies," said Dick Thornburgh, an attorney general under Reagan and Bush, "is that everybody wants a badge." William Barr, Bush's last attorney general, called the multiplicity downright dangerous. Which federal agency was responsible after the Gulf War for explosive packages? Nobody was sure.

ON THE DAIS: Law at the top: Attorneys general swap memories; AMERICAN BAR ASSOCIATION: 1999
Convention

As for the federal law (now expired) providing for an independent counsel to investigate presidents and such, the whole forum seemed grateful it was gone. Impeachment by Congress, meanwhile, remains a prosecutorial weapon --- and of course the Justice Department can still name a distinguished outside investigator.

Hunting Noriega; discussing and dismissing the idea of arresting 50,000 Iranian students; creating thousands of new federal crimes; mandatory sentences versus judicial discretion: There were opportunities galore to be sage, calm, humorous --- and miles above the "issue du jour."

But sometimes I got the feeling that the most exciting thing these guys had done was to deploy their troops from the pinnacle of power. Bell, for example --- who has been a federal appeals judge, a political adviser and the managing partner of King & Spalding law firm --- said being attorney general was the best job he'd had.

He added that what he missed most about it was "the car and the driver."

Our metro columnist
e-mail: ccampbell@ajc.com

Graphic

Photo

Dick Thornburgh (left), attorney general in the Reagan and Bush administrations, listens at an ABA forum Monday as Griffin Bell, attorney general under Jimmy Carter, recounts a humorous story. / KIMBERLY SMITH / Staff

Load-Date: August 10, 1999

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Document: KENNARD SAYS FCC STILL IS WATCHING CABLE ACCESS...

KENNARD SAYS FCC STILL IS WATCHING CABLE ACCESS ISSUE

Communications Daily

March 12, 1999, Friday

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Section: TODAY'S NEWS

Length: 935 words

Body

FCC plans to hold meetings soon with various "stakeholders" to further discuss cable access issue, FCC Chmn. Kennard revealed in speech Thurs. at seminar sponsored by Legg Mason investment firm. When asked by audience member why FCC doesn't require cable companies to provide open access to their broadband facilities, Kennard first said such action hasn't "made a lot of sense" to Commission, then added that "we're not saying no, we're still grappling with the issue." FCC declined to require cable unbundling as part of Sec. 706 proceeding or as condition for AT&T-TCI merger approval.

Kennard said Cable Bureau Chief Deborah Lathen and Office of Plans & Policy Chief Robert Pepper are setting up meetings to discuss issue further with representatives of both sides. High-level FCC staff members emphasized after Kennard's speech that meetings were routine part of Commission's promise to continue monitoring situation. Pepper said meetings will be "low key" and are being

scheduled primarily with "techies" to discuss networking issues. FCC Chief of Staff Kathy Brown pointed out that agency promised in Jan. to keep monitoring cable access issue when it declined to call for open access and, she said, that's why meetings will be held. She emphasized that they are "bureau-level" sessions.

In other comments in speech, Kennard: (1) Emphasized again that agency's reciprocal compensation order won't lead to Internet regulation. "As long as I am chairman, this agency will not regulate the Internet," he said. He said "some people are always trying to rile up Internet users" but "it's not going to happen." He decried "scare tactics" that frighten Internet users. (2) Revealed that proposal to revise colocation rules will be on agenda for next week's open meeting. Staff wouldn't elaborate on proposal but Brown pointed out that FCC sought comments last summer on competitive access to colocation space and this is resulting order.

In earlier panel discussion, GTE Gen. Counsel **William Barr** said key factor in getting Justice Dept. approval of GTE-Bell Atlantic merger will be whether companies are willing to give up some overlapping wireless spectrum. Merged company will violate FCC's spectrum cap in several states including Fla., Tex. and Va., he said.

Barr said timing of merger's close also will depend upon how quickly BA can get interLATA relief, either through state-by-state Sec. 271 process or waiver company is seeking for its BBN data business (CD March 8 p2). He told reporters after panel that "no one at the Commission has closed the door" to idea of interLATA waiver and commissioners have been considering it "in good faith." One of benefits of merger would be ability to enlarge GTE's data business through potential new customers provided by BA's base, Barr said. Data business is integral to merger, he said, because "dynamics of the data market will drive the business in the future." Problem is that restrictions on Bell companies' crossing LATA lines would apply to GTE's data service after merger and make it unusable.

Barr estimated that GTE-BA merger would close by end of year or possibly early 2000, depending on interLATA data question. He predicted FCC would give Sec. 271 approval for N.Y. by end of June, allowing BA to follow up quickly with applications for Pa. and other states. Bell Atlantic Chmn. Ivan Seidenberg said in Boston Thurs. that he expects company to file FCC application within 6 weeks for interLATA entry in N.Y. Barr told reporters that in his view interLATA restrictions and Sec. 271 process shouldn't apply to data services, GTE's or anyone else's, but indicated he doesn't expect that situation to change.

Also appearing on panel, ex-FCC Chmn. Reed Hundt had harsh words for critics who say Commission shouldn't be involved in reviewing mergers. FCC has that authority, he said, and questioning it is "cranky, nonlawyerly and lawless thing to do." Comr. Furchtgott-Roth has persistently questioned whether FCC should review mergers, since Dept. of Justice also has that task.

Hundt also predicted that access charge system will disappear in 5 years because cable and wireless will provide enough bypass to make present system unworkable. Ex-DoJ Antitrust Chief Anne Bingaman said she thought 5 years was too short. Things take a long time in telecom business, she said. On another topic, Hundt said he would be proud if his speech several years ago before American Enterprise Institute doomed then-proposed SBC-AT&T merger, as many have said. He had called proposed merger "unthinkable" in that speech. He said Thurs. he should "get an A" for possibly driving AT&T to much better merger -- with TCI.

Later in panel discussion, Common Carrier Bureau Chief Larry Strickling argued that proposed order on colocation issues should help speed competition by removing issue as barrier. However, he said U.S. Supreme Court decision Jan. 25 had forced Commission to retreat on Sec. 706 advanced service rules and predicted it will be several months before decision. Separate subsidiary option remains "viable and vibrant" solution, but Commission action isn't expected until "late spring," he said. Strickling defended subsidiary route, saying that when Bell company subsidiary has to deal on same basis as competitors, operations support system

problems "will be fixed" and rates will decline.

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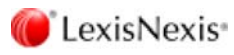
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Communications: IRVING RIPS 'STALL BALL'; BARR CLUBS FCC AS TELECOM RESULTS PROMPT FINGER POINTING



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Daily Report For Executives

December 11, 1998, Friday

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Section: REGULATION, LAW & ECONOMICS

Length: 1551 words

Byline: By David Kaut

Body

The blame game raged at a major telecommunications conference Dec. 10 as government and industry leaders debated why all-out competition has been slow to develop, particularly in the local phone business, three years after landmark legislation was enacted.

Speakers pointed fingers in all directions, including at industry legal tactics, regulatory action and inaction, and the 1996 Telecommunications Act itself.

Assistant Secretary of Commerce Larry Irving, the Clinton administration's telecommunications pointman, accused traditional local phone companies of playing "stall ball" in order maintain their stranglehold on local markets.

But GTE General Counsel William Barr placed most of the blame on regulators, particularly the Federal Communications Commission, for trying to micromanage competition without removing cross-subsidies, keeping the Bell companies out of long-distance, and resisting a natural trend toward industry consolidation.

Bell Atlantic Executive Vice President Thomas Tauke said that local competition was growing but would remain focused on business customers due to the subsidies. Tauke also said that the regulatory process delaying Bell Atlantic long-distance entry in New York was becoming "strange."

"This thing is so bizarre it's virtually become a farce," he said.

But Irving, FCC official Jim Casserly, and representatives of Bell rivals said the Bells simply had not complied with the Telecommunications Act's requirements to fully open their networks to competitors.

Consultant George Vinall, of International Protocol, said that Bell Atlantic would be able to exert end-to-end control over 65 percent of its traffic once it gains long-distance entry, giving it a huge price advantage over competitors due to inflated access charges. For comparison, he noted that MCI WorldCom only had 15 percent control.

Legislative Prospects.

Communications: IRVING RIPS 'STALL BALL'; BARR CLUBS FCC AS TELECOM RESULTS PROMPT
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Pete Belvin, an aide to Senate Commerce Committee Chairman John McCain (R-Ariz.), reiterated her boss's belief that the 1996 law was the real culprit for the slow development of competition. "This statute was made for stall ball, and that's what you're getting," she said.

Belvin said McCain would attempt next year to move legislation to correct the act's deficiencies and reform the FCC, but she doubted it would be in one big bill.

But AT&T Senior Vice President Jim Cicconi warned that a new legislative fight would be bad for competition. "There is a virtue in certainty," he said, arguing that nothing would bring new investment to a halt faster than reopening the act.

FCC Commissioner Michael Powell said that regulators were like parents who were scared of letting their industry children ride a bike down a steep "free market hill."

Powell also said the commission had to be careful about how it used its vague "public interest" authority in reviewing mergers. He said the FCC should not seek to impose conditions on merger applicants, unless they corrected demonstrable anti-competitive problems, including violations of existing law.

The conference, which will wrap up Dec. 11, was the Practising Law Institute's 16th Annual Institute on Telecommunications Policy and Regulation, which is also sponsored by the Federal Communications Bar Association.

First Internet Christmas.

One thing everybody appeared to agree on was that the Internet would continue to fuel a boom in data traffic that was transforming the industry.

Irving kicked things off by hailing the Internet explosion.

"We're in a period of chaos," Irving said. "But it's a good chaos."

Irving said that 70 million Americans and 150 million people worldwide were now online. Electronic commerce was growing by 200-300 percent a year, said Irving, who heads the National Telecommunications and Information Administration.

"This is going to be the first Internet Christmas. Forget a white Christmas," he said. "It's going to be a green Christmas for people who do things on the Internet."

Irving said the Clinton administration continued to support a "hands-off" online policy, including on nascent phone services using Internet protocol.

Irving paid tribute to the late Bill Baxter, the former Department of Justice official who spearheaded the break-up of the old AT&T monopoly. Irving said it was astounding that Baxter's recent death had not received more attention. It was Baxter, he said, who beat back opposition and convinced President Reagan to proceed with the case that resulted in the Modified Final Judgement (MFJ). That consent decree broke off the regional Bells from AT&T, jump-started long-distance competition, and set in motion the forces that led to the 1996 act, he said.

LECs Sitting on a Lead.

But Irving said that local phone competition was still mostly a promise. Incumbent local exchange carriers (LECs) still dominated the business, and the little competition that had developed was focused on business and high-end customers, he said.

Communications: IRVING RIPS 'STALL BALL'; BARR CLUBS FCC AS TELECOM RESULTS PROMPT FINGER POINTING

Irving compared the legal and regulatory strategy of incumbent LECs to the tactics of former University of North Carolina basketball coach Dean Smith, who "used big powerful guys to get the lead" and then went into a "Four Corners" delay game to run out the clock.

"Sound familiar?" Irving asked. "What I think we have is some big powerful guys with a lead, and what they're trying to do is use is their size and their power and a couple of innovative quick moves to not lose that lead."

Irving said that major industry players had spent billions of dollars in legal fees. Incumbent LECs and their competitors had challenged 150 state interconnection decisions and at least 20 FCC rulemakings or orders implementing the act. Irving said it was particularly galling that some who had pushed Congress to pass the act were now challenging the constitutionality of certain provisions, in a clear reference to SBC Communications' attack on the Bell long-distance restrictions.

"There's something ludicrous about all this," Irving said. "So we're still waiting 3 years later."

"Let's get on with the game," he said. "Enough of the stall. Let's move forward and build out these marketplaces."

Winds of Change?

Irving noted that eventually college basketball had installed a shot clock to prevent delay tactics.

"We need to do the same thing as far as the local telecommunications market," he said, noting that business and consumers were demanding increased bandwidth, or network capacity. "They're not going to get it if folks are allowed to stall the ball away."

"Until the game is joined we will never know who the stronger competitor really is. Is it the fast quick player or is it the big galunk?" he asked. "I want to see the fast quick player out there on the floor."

Irving did say there were some indications the tide was beginning to turn. He said he was gratified to see that BellSouth had dropped its challenge to the FCC's rules on universal-service subsidies.

"Let me take this opportunity to commend BellSouth," he said. "Withdrawal was a bold action."

Irving also took note of a recent proposal by an alliance of Bell and computer companies, and another one by a group of computer companies on ways to promote the development of high-speed networks. He said he was not addressing the merits of the proposals but lauded the attempts to build coalitions.

Irving did express skepticism about consolidation in the local phone industry.

Regulators Fighting Wrong War.

In a separate speech, GTE's Barr also took note of the Internet data revolution. The problem was that policymakers appeared focused on traditional phone service, which an MCI WorldCom official had said was becoming a "niche market," noted Barr.

"I think he's right," he said. Regulators were "fighting the wars of 1984 instead of the wars of 2000."

The Internet was placing power in the hands of those who could aggregate traffic. The question was whether the industry structure would be "an Egyptian pyramid," with a single dominant company at the apex, or a "Mayan pyramid," with a number of players at the top.

Barr said there was a "dangerous" level of concentration developing among long-distance players, which controlled much of the Internet "backbone."

Communications: IRVING RIPS 'STALL BALL'; BARR CLUBS FCC AS TELECOM RESULTS PROMPT
FINGER POINTING

But Barr said the Justice Department and the FCC were focused on keeping the Bells in the "penalty box" and out of long distance. He said regulators also misunderstood the need for companies to merge as the communications markets converge.

Barr said local phone companies were being treated by regulators "like Hercules strapped to a rock with someone pecking at your liver."

Barr slammed the FCC for failing to remove monopoly-based cross-subsidies that discouraged local competition, and its planned use of a cost-model to carry out universal-service reform. He also said the commission's "forward looking" price theories were stifling true competition because new competitors would be discouraged from building their own facilities as long as they could gain access to existing systems at cheap prices.

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REFLECTING ON THE FUTURE

Daily Press (Newport News, VA)

August 29, 1998, Saturday,, Final

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Section: Local,

Length: 22 words

Body

Below: W&M freshman Sara Throckmorton listens to the speaker's remarks while the Wren Building is reflected in her glasses.

Graphic

Staff photos (color) by DAVE BOWMAN

Top: Former U.S. Attorney General William P. Barr spoke to freshmen at The College of William and Mary Friday during the school's opening convocation.

Left: Members of the class of 2002 sit during the convocation behind the Wren Building.

Load-Date: June 9, 1999

End of Document

President Sullivan has often said that a William & Mary education is, in large part, about sustaining a culture of virtue.

Today I would like to talk a little about this notion of a culture of virtue.

I want to tell you:

- why I think it is important in the life of our nation today, and
- why it should be important to you as you pursue your education at William & Mary.

Let me start with the obvious question.

Why should we in a free society care about virtue?

Why should we be concerned about maintaining a culture of virtue?

Let me give you two perspectives on this.

The first comes from the generation that founded this great Republic.

The second is one that struck me with great force only a few weeks ago.

A.

The founding generation had a clear and emphatic answer to the question “Why should we care about virtue?”

Many of the leaders of that generation were Virginians whose vision was shaped here at William & Mary.

It is, appropriate that we look back to the great tradition that was nurtured right where we stand.

The Founding Fathers believed that Freedom and Personal Virtue necessarily had to go hand-in-hand.

A people could not be trusted with freedom unless they had the internal moral discipline (the virtue) to use it responsibly.

Giving freedom to an individual who had no virtue, they thought, would be like giving a loaded gun to an insane person.

I think the Founders’ basic insights can be summed up this way:

While individuals have the potential for great good, they also have powerful passions, and if left entirely unrestrained, are capable of riding roughshod over their fellow citizens.

Civil society cannot exist without some mechanism for restraining individual rapacity.

However, if you rely on government to impose restraints, you run the risk the government becomes too controlling and you end up with no liberty, just tyranny.

On the other hand, unless you have some effective restraint, you end up with something equally dangerous – “licentiousness” – the unbridled pursuit of personal appetites at the expense of the common good.

The Founders’ decided to take a gamble; they said it was a great experiment.

They would provide for broad personal liberty, limit the role of government, and place their trust in the self-discipline and virtue of the American people.

In the words of James Madison: “We have staked our future on the ability of each of us to govern ourselves....”

Thus, the Framers held that, in a free Republic, social order must flow from the people themselves – freely obeying the dictates of commonly-shared moral values.

This means that the fate of popular government ultimately depends on the character of people.

Free government can survive only as long as there is public virtue.

Edmund Burke summed the point up in his typically colorful language:

Men are qualified for civil liberty, in exact proportion to their disposition to put chains upon their own appetites, -- in proportion as their love of justice is above their rapacity, -- in proportion as their soundness and sobriety is above their vanity and presumption. Society cannot exist unless a controlling power be placed somewhere; and the less of it there is within, the more there must be without. It is ordained in the eternal constitution of things that men of intemperate minds cannot be free. Their passions forge their fetters.

Obviously, from this perspective, it is not only right to be concerned about society's moral underpinnings, but indeed there is no greater civic task than fostering the culture of virtue.

And, one of the principal means by which a free society can cultivate virtue in its citizens is the process of education.

Now, I have just described the classic political science reason why we should be concerned about maintaining virtue – because our liberties depend on it.

B.

A few weeks ago I saw a movie that gave another answer to this question.

The movie was Steven Spielberg's "Saving Private Ryan". It is a great and powerful film.

The answer the film gives to the question – why virtue – is probably also a classic one, but it is presented with rare and moving visceral force.

The film portrays the horrific sacrifices made by American soldiers in winning World War II.

The film's message to us is that we can never repay those sacrifices.

All we can do is to try to live our lives to make those sacrifices worthwhile; to try to live virtuous lives.

At the end of the film, the old veteran at the Normandy cemetery is overcome with emotion as he visits the graves of those who gave their lives for him.

He turns to his wife, and what does he ask her:

- Tell me that I have lived a good life.
- Tell me that I have been a good man.

In other words, our freedoms have been dearly bought.

The freedoms that you and I enjoy today – and all that flows from them – the dreams, the opportunities, the petty amusements, the profound loves – all has been paid for in blood.

It would be an abomination to abuse or trivialize those freedoms. We can do nothing else but use them responsibly and live virtuously.

II.

Let me turn to the next obvious question.

- What is meant by “virtue”?
- What did the old veteran mean when he asked, “Have I lived a good life”?

The essence of virtue is living your life in accordance with an objective standard of right and wrong.

The standard is a yardstick that tells us whether we are living a good life.

The starting point for virtue, then, is the recognition that there is a real world outside ourselves and that there are things about this world that exist independent of our own will that have a legitimate claim on us, indeed that command our commitment.

At its core, virtue commands two things: (1) commitment to the Truth; and (2) commitment to serve others.

There was an old Roman saying: “Magna est veritas et praevalet.” --- “Great is the Truth and it shall prevail.”

There is such a thing as Truth. There is a vast universe about us. We can learn truths about it.

The skeptic Berkeley suggested that we really cannot know whether there is a reality outside our own mind.

Doctor Johnson, while on a walk one day, came upon a large stone. Rearing back, he gave it a mighty kick and said: “Thus I refute Berkeley.” In other words, there is a reality beyond ourselves.

We can know it. Perhaps not perfectly. But through reason, through scientific method, through personal and collective experience, through poetic imagination, we can grope our way to a deeper understanding of our true nature and the true nature of the world around us.

And, as we learn more about ourselves and our place in the universe, we come to a better understanding of how we ought to behave – we are better able to discern right from wrong.

This is what the ancient Greek philosophers meant when they said: “Knowledge is virtue.”

They did not mean that simply accumulating factoids made you virtuous. Rather, they meant that, as one comes to know the true nature of things, one will come to know what is good and then do what is good.

Indeed, education in its deepest sense is precisely this search for the truth.

I want to make three brief points about education as a search for truth.

First, education is not the same as vocational training.

Training is absorbing the technical knowledge and skills needed to perform one’s job, be it a tradesman, doctor, or accountant.

Education ultimately involves learning truth about oneself, about the human condition, about how one fits into the universe.

Education involves developing the faculties of clear and critical thinking, the ability to express oneself clearly, the capacity to discern what is true and what is false.

Do not forget your main purpose here at William & Mary is education in this deeper sense. And you achieve this through broad exposure to the arts, sciences, and liberal arts.

My second point about education as the search for truth relates to the difference between sincerity and honesty.

If you genuinely hold an opinion or view, then it can be said your view is sincerely held.

But if you have never tested that view against the truth and honestly determined whether that view is true, then it cannot be said that your view is honestly held.

Many of our views we accept without much critical analysis. It is the conventional wisdom of the day. It takes work to put them to the test.

But part of the fun of education is doing just that.

My third point about education as the search for truth is this.

From time to time, you may hear the view (I hope not here) that there is no such thing as the truth, or that we can never know

the truth and therefore should not waste time trying to find it – that the only thing that exists is opinion and everybody’s opinion is just as a valid as everybody’s else’s.

This is the antithesis of education.

The Founders believed that in a democratic society one of the ways we can arrive at the truth is through the competition and conflict of competing opinions and ideas.

The notion is that in the marketplace of competing ideas, through robust public debate, the truth will ultimately prevail.

Part of the necessary etiquette of the process is that we recognize that people are entitled to hold and express different views.

But this essential tolerance for others holding different views does not mean that all views are equally valid.

Mein Kampf and the Declaration of Independence are not equally valid. Hitler’s tract is lie; Jefferson’s the truth.

III.

Let me conclude with some thoughts about virtue's second core command – the commitment to serve others.

While individuals can be selfish, they are also capable of great altruism. People do have a willingness to sacrifice their own interests for the greater good.

This sacrifice -- which really includes all service to others – can run the gamut from the supreme sacrifice in war, to the volunteer and charitable work so many of you engage in.

It can also include civil service or holding public office.

I am not talking necessarily about high office or political office.

I am talking about regular government positions – like prosecutors, foreign service officers, public health officials, and so forth.

The fact that these are paid positions does not deprive them of their essential public service character.

The financial benefits in public service are rarely what they are outside. But there is a compensation you cannot get in purely private employment.

There is a feeling of purpose and satisfaction in knowing that what you are doing is important to the community.

I had the privilege of serving in the law enforcement arena. The men and women I saw – agents, prosecutors – set the highest standard of selflessness and devotion.

At great personal sacrifice, they worked day in and day out with a steadfastness of purpose that came from knowing they were promoting the public good.

Why should we feel compelled to serve others?

It should not because of some vague sentimentality, but because the need to serve is rooted in a fundamental truth about human nature.

We are not isolated, atomized individuals.

We are parts of families; we are parts of communities; we are parts of a nation; we are parts of the human family.

And, from these relationships flow obligations.

As John Donne wrote, No man is an island complete unto himself, but part of a continent.

Thus, narrowly pursuing our selfish interests without regard to the needs of others is contrary to our natures.

We are really true to ourselves, we genuinely fulfill ourselves, in living for others.

Another reason why we must feel compelled to serve others, is because of the sacrifices made for us.

We are all standing on the shoulders of others. None of us have really gotten to where we are “all on our own.”

We have been aided by all the small and all the great sacrifices, by all the small and great acts of beneficence, that have been made through generations past up till today.

And it would be wrong to take without giving.

That is why it is appropriate today that we recognize the honorees.

Each of you have set an extraordinary example of selfless public service.

Thank you for reminding us of our responsibility to our fellow citizens and our communities.

FCC AIDE SAYS SEPARATE AFFILIATE REQUIREMENT WOULD SPUR BROADBAND SERVICES

Communications Daily

March 2, 1998, Monday

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Body

Requiring incumbent telcos to form separate affiliates to offer broadband data services might spur development of advanced networks and end roadblocks that have held back competition in general, FCC official told audience of consumer advocates Fri. Larry Strickling, chief of FCC's Competition Div., said at conference sponsored by Alliance for Public Technology (APT) that theory is simple: Telco's affiliate would operate as competitive LEC, meaning it would have to negotiate with its parent to get interconnection and access to unbundled network elements. Because parent would have incentive to see affiliate become successful, it would move more quickly to solve problems that have delayed build-out of new networks. Also part of equation, he said: Separate affiliates could offer their broadband networks without some regulations required of parents.

Strickling, who emphasized that idea is his own and doesn't reflect FCC policy, said concept calls for "putting incumbent LECs to work to solve these problems." His comments were made at conference that looked at why telephone industry hasn't worked faster to develop high-bandwidth networks for Internet traffic and other advanced services. He said he's not talking about broader LCI proposal that advocates dividing Bell companies into retail and wholesale units but concept is similar.

Corning Vp Timothy Regan said incumbents' investment in fiber cable actually has gone down 6.4% since Telecom Act was passed. By contrast, telcos' investment in fiber increased 85% shortly after AT&T divestiture. Regan blamed incumbents' investment qualms on regulatory, market and technological uncertainties. Bell Atlantic Senior Vp Edward Young said telcos will need "right incentives before we put several hundred million dollars worth of fiber in the ground."

Henry Geller, member of APT board and fellow at Markle Foundation, said FCC must act quickly to encourage deployment of broadband networks, as required by Telecom Act. He said Act mandates that FCC hold inquiry by Aug. 8 but it ought to act faster and consider rulemaking rather than only inquiry. APT recommended in Feb. 18 petition that FCC remove some regulatory barriers to development of advanced telecom services, for example not applying Act's Sec. 251 requirements to advanced networks. Sec. 251 requires incumbents to open networks to competitors.

GTE Gen. Counsel William Barr said in lunch speech that Telecom Act's goal of developing innovative services through competition has been "sabotaged" by FCC pricing policies such as "deliberate low-balling of the amount of universal service support necessary." He said industry needs "leadership and courage from public officials" willing to set "realistic support levels." He said he would like to see Congress "readdress" universal service provisions of Telecom Act to "come to grips with what is adequate funding."

Load-Date: March 1, 1998

FCC AIDE SAYS SEPARATE AFFILIATE REQUIREMENT WOULD SPUR BROADBAND SERVICES

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GTE's Barr Urges Change Of Universal Service Design

COMMUNICATIONS TODAY

November 17, 1997

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Length: 726 words

Body

The FCC's universal service reform must be significantly changed, or residential customers will not benefit from local competition for a very long time, GTE Corp. [GTE] Executive Vice President and General Counsel William Barr charged late Thursday (11/13). Barr, speaking at the American Enterprise Institute in Washington, said that the new universal service subsidies designed by the commission are so low that competitive local exchange carriers (CLECs) have little or no incentive to serve residential customers.

"My plea to [FCC Chairman William Kennard] is to straighten out universal service. There has to be adequate and sufficient support, not a low-ball support," he said. "As long as it's a losing proposition to serve the residential market, then the benefits of competition" will not be realized by that segment of the telecom market.

Barr especially attacked the agency's decision to rely on a forward-looking cost model--the final version of which has yet to be worked out--to determine support for those carriers serving high-cost areas.

"You can use all the computer models you want, but the bottom line is, out in the real world you can't make money serving Aunt Tilly, so she will not get the benefits of competition, and the models can't change reality," Barr noted.

Several steps can be taken to correct the situation, Barr said, including targeting support only to low-income areas. In other words, he explained, local carriers should be allowed to raise basic rates for wealthier areas. "We have to make more use of targeted voucher-type support" in order to keep rates arbitrarily low only for "those who really merit support," Barr said. He called it "ridiculous" that residents in, for

GTE's Barr Urges Change Of Universal Service Design

instance, wealthy Greenwich, Conn., should be subsidized.

Barr Supports BOCs Seeking Long-Distance Approval

Barr touched on a variety of subjects during his speech. For instance, he lent his support to Bell operating companies (BOCs) trying to enter the in-region, long-distance market.

CLECs, he said, are basically holding BOCs hostage because the new entrants are only "cherry-picking" the business customers while not entering the residential market, thus making it difficult for the BOCs to persuade the FCC and the Justice Department that they have met all the pro-competitive requirements. He called this situation "an outrageous distortion" of the Telecom Act of 1996.

"If it takes a new set of legislation to deal with that, then I think it should be considered. But the current impasse cannot continue," he said.

GTE itself became free to offer long-distance service with the passage of the Act.

Barr also defended mergers in general, finding "knee-jerk reactions" among many politicians and consumer groups against consolidations "absolutely bizarre."

The Act actually was designed to "lead to mergers and consolidations as one of the ways you could break down the silos of the past," he noted, adding that he was disappointed that WorldCom Inc. [WCOM] "won the contest" for a merger with MCI Communications Corp. [MCIC], but that GTE may partner with another company if the right "opportunity" arises. He joked that some people had favored a GTE-MCI merger because Barr might then lobby the FCC for forward-looking costs at some future date.

But despite his pro-consolidation stance, Barr said GTE is opposed to the MCI-WorldCom marriage because it is "anti-competitive." That is so, he explained, because it will "take one of the CLECs out of the [local] market." As a result, he predicted that it will be "very difficult" for MCI WorldCom to pass regulatory muster.

Asked whether he thinks that Internet service providers (ISPs) will be exempted indefinitely from paying access charges, Barr said that the current system of ISPs being implicitly subsidized "can't

GTE's Barr Urges Change Of Universal Service Design

last for much longer."

"There will perhaps be a subsidy [for the Internet], but there must be an [explicit] mechanism paying for that subsidy," he noted. He acknowledged that it would be politically unpopular to regulate the Internet, but said, "It remains to be seen what they do politically, but the courts may not allow [the current system] to continue."

Load-Date: November 18, 1997

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Midwest Governors to Discuss Utilities, Telecommunications

Omaha World Herald (Nebraska)

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Body

THE KANSAS CITY STAR

Governors from the nation's midsection will congregate in Overland Park today and Monday to discuss changes in the telecommunications and electric-power industries.

"They may be complicated, but these are definitely 'quality of life' issues," Kansas Gov. Bill Graves, who is this year's chairman of the

Midwestern Governors' Conference, said. "These will soon be front-burner issues in the Midwestern states, and I am grateful for the lineup of experts who have agreed to participate."

Governors from seven of the 12 states that are members of the Midwestern Governors' Conference are scheduled to participate. Overall, about 230 people have registered to attend.

The conference's business sessions will be Monday at the Doubletree Hotel, opening with an overview of so-called retail wheeling of electricity, the process of bringing competition of the electric-power industry by allowing customers to choose their supplier.

The topic was before this year's Kansas Legislature, but no legislation was passed. Instead, a task force was created to study the possibility of allowing suppliers to compete for customers at the residential and business levels, much as long-distance telephone companies now compete.

Members of the task force are scheduled to attend the governors' session.

William Hogan of the Kennedy School of Government at Harvard University will discuss the future of the utility marketplace.

Midwest Governors to Discuss Utilities, Telecommunications

He will be followed by a panel consisting of Mark Cooper of the Consumer Federation of America, John Hayes Jr. of Western Resources, John Anderson of Electricity Consumers Resource Council and William Mayben of Nebraska Public Power District.

The afternoon session will focus on telecommunications as it moves from a monopoly to competition.

Panelists will be John Hoffman of Sprint, William Barr of GTE, James Casserly of the Federal Communications Commission and Susan Weinstock of the American Association of Retired Persons.

Contributions from more than 50 businesses totaling more than \$ 200,000 financed the conference. Solicitations were made by Graves in a letter on Midwestern Governors' Conference stationery.

Participants have been invited to attend the Kansas City Royals' game against the Texas Rangers today.

After the game, they will attend a reception at the NCAA Hall of Champions. The NCAA has decided to move from Overland Park to Indianapolis. Indiana Gov. Frank O'Bannon, the incoming conference chairman, is expected to attend the reception, where Graves will make informal remarks.

"I wouldn't be surprised if there were a good-natured jab," said Graves' communications director, Mike Matson.

Governors, conference participants and sponsors will attend a dinner at Cedar Creek Country Club to cap the day's events.

The sponsors of this year's Midwestern Governors' Conference and the amounts they contributed:

3M, \$ 5,000; Allied Signal, \$ 2,000; Amoco Oil Co., \$ 2,500; Anheuser-Busch, \$ 3,500; Ash Grove Cement, \$ 2,500; AT&T Corp., \$ 5,000; Bayer (two contributions), \$ 6,000; Black & Veatch, \$ 5,000; Blue Cross/Blue Shield, \$ 2,500; Boeing, \$ 5,000; Brown and Williamson, \$ 5,000; Cessna, \$ 5,000; Coastal, \$ 5,000; Coca-Cola Co., \$ 2,000; Coca-Cola Enterprises, \$ 3,000; Eastman Kodak, \$ 2,000; Employers Reinsurance, \$ 2,500; Farmland

Midwest Governors to Discuss Utilities, Telecommunications

Industries, \$ 2,500; Mark and Suzanne Ferguson, \$ 500; Ford Motor Co., \$ 5,000; General Motors Corp., \$ 5,000; Glaxo Wellcome, \$ 3,500; Hallmark Cards Inc., \$ 5,000; Health Midwest, \$ 2,500; Hoechst Marion Roussel, \$ 10,000; Holnam Inc., \$ 2,000; IBM Corp., \$ 5,000; Illinois Tool Works, \$ 3,500; Kansas Farm Bureau, \$ 500; Kansas City Southern, \$ 2,500; Kansas City Power & Light Co., \$ 5,000; Koch Industries, \$ 5,000; MCI Communications Corp., \$ 5,000; Mesa Inc., \$ 2,500; Merck & Co., \$ 3,500; NationsBank, \$ 5,000; NCRA, \$ 2,500; Norwest, \$ 2,000; Pfizer, \$ 3,500; Philip Morris, \$ 5,000; Rhone Poulenc Pharmaceutical, \$ 1,000; R.J. Reynolds, \$ 2,500; SBC Communications, \$ 5,000; Security Benefit, \$ 2,500; Sprint Corp., \$ 10,000; St. Luke's, \$ 2,500; State Farm Automobile Insurance, \$ 3,500; Universal Underwriters, \$ 5,000; UtiliCorp United, \$ 5,000; Vulcan Chemical, \$ 2,500; Western Resources, \$ 5,000; Williams Natural Gas, \$ 5,000; Xerox, \$ 10,000; and Yellow Corp., \$ 2,500.

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Document: JUDGE GREENE EXPRESSES CONCERN OVER BOC ENTR...

**JUDGE GREENE EXPRESSES CONCERN OVER BOC ENTRY INTO
LONG-DISTANCE**

COMMUNICATIONS TODAY

December 13, 1996

Copyright 1996 Phillips Business Information, Inc.

Length: 746 words

Body

The Honorable [Harold Greene](#) ▼ said yesterday (12/12) that the Telecommunications Act of 1996's competitive checklist may not be as effective a safeguard as those included in the consent decree--the Modified Final Judgment (MFJ)--which guided the divestiture of AT&T. In fact, speaking at a conference in Washington sponsored by the [Practising Law Institute](#) ▼ and the Federal Communications Bar Association, Greene said he is concerned that the checklist might allow Bell operating companies (BOCs) into long-distance too soon, threatening competition.

The MFJ, which Greene presided over until it was superceded by passage of the Act, prohibited the BOCs from offering in-region long-distance service--among other things. The rationale behind this, Greene said, was to ensure that the local companies did not duplicate the monopoly which the MFJ was intended to dissolve.

Under MFJ, Greene's court had the power to determine if there was sufficient competition to justify a BOC being allowed into the long-distance market. Greene said he would have ensured that "real" competition existed before granting such permission.

With this in mind, Greene added that the competitive checklist does not require this "real" competition, but instead will allow for BOC entry on the principle of competition--in other words, if the conditions for competition exist. Therefore the Act is "not as rigorous" as the MFJ with regard to BOC entry into long-distance. Greene insinuated several times this may be because legislators are subject to lobbying, whereas federal judges are not.

The 8th Circuit

The controversy the 8th U.S. Circuit Court of Appeals' stay of portions of the FCC's Interconnection Order has brought other questions into light regarding the entry of BOCs into the long-distance industry. For example, some industry insiders are wondering whether the stay will delay consideration of BOC applications. Others have suggested that the FCC will not look favorably on BOC applications made in states which did not follow the pricing provisions in the FCC's order.

Judge Greene was quiet on the subject, joking that the 8th Circuit did not ask his opinion before it issued the stay.

Other panelists at the conference had more to say on this issue, however. FCC Common Carrier Bureau (CCB) Chief Regina Keeney said that there can be no delay if the commission receives applications. because the Act only gives the commission 90 days for review. She also addressed the fact that most of the states, after doing their own studies, have published pricing provisions similar to those in the Interconnection Order. The reason the states objected to the Order had to do with jurisdictional issues, not substance, Keeney added.

Gregory Rosston, CCB chief economist, agreed with Keeney that BOC entry shouldn't be delayed by the stay, adding that each application will be considered on a state-by-state basis. The FCC, he said, will evaluate each state's rules to see how well they are working and how well competition has developed.

William Barr, senior vice president and general counsel for GTE Corp., said those who have said BOC entry into long-distance will be delayed as a result of the stay are assuming that a national standard is needed in order to have competition. And Heather Gold, president of the Association for Local Telecommunications Services, said how quickly BOCs get into long-distance is completely up to them. It all

is "coupled with how fast they allow facilities-based competition in their region," she explained.

Discussion also erupted among panelists over how the Interconnection Order has affected incentives to negotiate in good faith.

Gerard Salemmé, vice president of government affairs for AT&T [T], said that while the BOCs have the incentive of entering the long-distance market, other incumbent local exchange carriers, including GTE, needed government standards to open their monopoly.

Barr, however, said GTE's incentive was the fact that if it did not negotiate in good faith, pricing platforms would be imposed on it during arbitration. The Interconnection Order took away this incentive by setting proxy rates and taking away any uncertainty, he explained, adding that companies such as AT&T now refuse to negotiate anything other than the proxy rates.

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NEWS OF RELIGION Marriage workshop

Providence Journal

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Section: LIFEBEAT,

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Dateline: GREENVILLE

Body

Bishop Louis E. Gelineau will hold an informational session next Saturday on a three-day workshop for improving marriages that will take place next month.

Bishop Gelineau will talk at St. Philip's parish center at 622 Putnam Ave., Greenville. Refreshments will be served at 6 p.m. A short video will be shown at 6:30 p.m. And then Bishop Gelineau will lead a presentation discussing the workshop.

At the workshop, called Marriage Encounter Weekend, couples learn about relationship techniques in groups. Then they have an opportunity to explore the techniques alone in their rooms. The weekends are organized across the world. The next Marriage Encounter in Rhode Island will be Oct. 25, 26 and 27 in Newport. To register for the weekend, please call Tony and Laurie Deller at 765-4862.

Memorial service

PROVIDENCE - The Rhode Island Holocaust Memorial Museum will hold a service tomorrow commemorating Holocaust victims. The eighth annual Yizkor Service will take place at 10 a.m. in the museum's Memorial Garden. Visitors can make entries into the museum's Book of Remembrance, which lists the names of those who died during the Holocaust. The museum is located at 401 Elmgrove Ave.

For mixed families

PROVIDENCE - Temple Beth-El will host sessions from October to May helping interfaith families explore their Jewish heritage.

The 15 classes will occur two Sunday afternoons each month at the temple, which is located at 70 Orchard Ave. The two-hour classes, which start at 2 p.m., are aimed at interfaith families who are not affiliated with any Jewish congregation.

They are designed to provide an opportunity for children to enjoy Jewish traditions and culture. Parents will have a chance to learn about Judaism and talk about the challenges they face as members of interfaith families.

The "Stepping Stones" program is free. Classes begin Oct. 6. For more information, please call the Stepping Stones Director at Temple Beth-El at 331-6070.

Red Mass

NEWS OF RELIGION Marriage workshop

NORWICH, CONN. - St. Patrick Cathedral at 213 Broadway will hold the sixth annual Red Mass and Brunch Sunday, Oct. 6. Former Atty. Gen. William P. Barr will be the keynote speaker.

Bishop Daniel A. Hart will be celebrant and homilist of the Mass at 10:30 a.m. Brunch will follow in the lower Cathedral Auditorium, and will feature the speech by Barr, now the general counsel at GTE Corporation.

Reservations for the Red Mass Brunch, and a \$ 15 donation per person, are required by Sept. 30. Please make checks payable to the Diocese of Norwich, attention: Atty. Salvatore A. Mazzotta, Chancery, Diocese of Norwich, P.O. Box 587, Norwich, Coonn. 06360.

If you have any questions, please call (860) 887-9294.

St. Therese of Lisieux

BARRINGTON - The Carmelite Monastery at 25 Watson Ave. will commemorate the first centenary of the death of St. Therese of Lisieux next Sunday. During the liturgy, which begins at 9:30 am., the Most Rev. Louis E. Gelineau will be the principal celebrant and Father Michael Dodd will be the homilist. There will be a 2 p.m. conference led by Fr. Dodd, and then an evening prayer and benediction.

The monastery will celebrate the Feast of St. Teresa of Avila on Oct. 15. There will be a 7:30 p.m. liturgy. Father Salvatore Sciorba will be the celebrant and homilist.

Carman to play for free

PROVIDENCE - Christian musician Carman will perform for free at the Providence Civic Center at 7 p.m. Tuesday. The concert is part of Carman's 90-city R.I.O.T. tour, which stands for Righteous Invasion of Truth. The doors open at 6 p.m.

Cardinals write Congress

WASHINGTON - The Catholic cardinals of the United States and the head of the National Conference of Catholic Bishops wrote each member of Congress and urged them to vote to override President Clinton's veto of a bill banning partial-birth abortions.

In their two-page letter, the officials called the controversial abortion procedure an "especially egregious attack on a child in the very process of being born." They said permitting the procedure would move the nation a step closer to "acceptance of infanticide."

"If killing mostly-born children is justified as a natural extension of abortion," they wrote, "this same lethal logic can be extended tomorrow a few inches more - to justify killing newborn children."

Load-Date: September 24, 1996

Commencement Speech

*Religious of the S.H.
Trustees
members of the Bd.*

Sister Dyer, distinguished faculty, fellow parents, families and friends,
and most especially,
members of the Stone Ridge Class of 1996:

It is a great privilege for me to join in celebrating the achievement^s of this talented,
high-spirited class of young women.

You have every reason to be proud of your accomplishments. You have excelled
in one of the most rigorous and demanding academic programs in the country.
~~And we know what it has taken — a lot of hard work.~~

As a group, you have stuck together, been true friends to each other, and ^{shown a remarkable} ~~displayed a~~
generosity of spirit ~~that is remarkable~~. And you have made a great contribution in
building community here at Stone Ridge.

In short, you exemplify the very best of what a Sacred Heart education can produce.
I am sure that Sister Dyer and others at the school will agree that, even by Stone
Ridge's high standards, you are a stand-out class. ~~This might be a stand-out~~
~~class as good, but I can't imagine any other.~~

Congratulations on a job well done. |

I am sure you can imagine that I have been receiving a lot of unsolicited advice about what to say this evening. My daughters have given me endless guidance, unfortunately most of it of the general variety -- such as : Don't embarrass us. Don't make a fool of yourself.

My oldest gave me more specific assistance this morning. She advised: "Don't try to be witty or charming or seem intelligent; just be yourself."

Now, I have to admit to my fellow parents that over the past few months, ever since Sister Dyer asked me to speak, I have able to use this to good advantage at home. I have found it to be effective ammunition in ~~my~~ disputes with my daughters, particularly the graduate.

I found that whenever I was being backed into a corner, all I'd have to say is: Gee, I am thinking of saying something like this at commencement -- and then proceed to recite a choice comments that would not just embarrass, but mortify, my daughter. It is uncanny how she came around to my point of view.

Well, you won't hear those choice excerpts today. But it was fun while it lasted.

Obviously, you members of the Class of 1996 are the principals in this exercise. But before I go further I would like to recognize the other dramatis personae here today -- your parents, family and friends -- who have sacrificed so you could be here and have supported you along the way. *They have every reason to be proud.*

~~Perhaps some of you other parents, like me, have over the past few hours drifted back to that day we brought our little baby girls home from the hospital -- the high hopes, the dreams, the aspirations we had for them. And today we look at these wonderful young women and we are so grateful that our hopes are being realized.~~

And let me pay tribute to, and express our gratitude to, this wonderful institution of Stone Ridge and to you, Sister Dyer, and the superb administration and faculty that has so ably carried on the traditions of Sacred Heart education.

Because of your dedication, this school provides an education in its truest sense -- not just the imparting information, but developing the whole person -- mind, body, and spirit.

This is a school that teaches students how to think critically with their minds, while deepening their understanding of the timeless values that flow from the love of God.

Vital truths &

Over the past 20 years, I have had a recurring experience that is almost eerie. I have encountered -- both professionally, politically and socially -- some extremely impressive women who have just seem to stand out from the crowd. They have exuded confidence, poise, intelligence, commitment. And I have almost invariably discovered that these woman are the products of a Sacred Heart education. It does make a difference.

You graduates may not fully appreciate it yet, but most of your real education has taken place here at Stone Ridge. Your basic tools are there -- your critical faculties, your values and standards.

From now on, your schooling is going to become less and less education and more and more training; less a matter of how well you think and more a matter of accumulating data, acquiring technique, and applying what you have learned to more complex situations.

~~As the years go by, I think you will see that what you have learned here at Stone Ridge will be far more central to your life than anything that comes later.~~

And so this ceremony today marks your successful completion of this foundational phase of your life. But it also celebrates a new beginning.

That is why, of course, we call it a "commencement" and not a "conclusion".
Because we are looking ahead.

Yes, it is right to be a little sad that your years at Stone Ridge are over. You have gone through so much together and this is probably the last time you will all be together -- no more Congés, no more congregations in the Study Center, no more gouter, no more assemblies, no more schlepping your out-of-shape fathers to Field Day. (I see one father over there is saying "speak for yourself"; a point well taken.)

And it is right to look back with satisfaction at your accomplishments, but ~~but~~
above all, you should be looking ahead with excitement and ~~and~~ anticipation.

You are entering a new world brimming with opportunities and challenges. And you are entering that world, not as children, but as adults.

And as adults, you are going to have unprecedented freedom. ~~You will have freedom over what you study, how you study, how you spend your time.~~

From now on, what you make of your life will be the result of decisions and choices you make.

~~Yes, there will still be parental support, the helping hand, the loving advice, but, in the final analysis, your future is truly in your hands.~~

You are entering a world overflowing with opportunities. Perhaps no generation has faced such seemingly limitless possibilities.

When my generation graduated from High School, we were still locked in the Cold War and worried about nuclear catastrophe. ~~Just in the last few years, all of this has changed.~~

And you should be eggs to move forward.

But today's

Communism has been defeated. Peoples longing for freedom has been realized, ^{on the march,} and our democratic ideals are springing to life throughout the world. This historic triumph is releasing energies for more productive pursuits.

~~International commerce is expanding creating global opportunities and economic growth.~~ We are in the midst of an almost dizzying technological revolution -- the information revolution -- which, if harnessed wisely, has the capacity to expand opportunities and change the way we live for the better, bringing us closer to our families, friends, communities and the world at large.

And right on the heels of the information revolution, another one is taking shape -- the biotechnology revolution., which holds so much promise for addressing world hunger and curing, ~~if not eradicating,~~ many of the life-threatening diseases, ~~that have plagued humankind over the centuries.~~

And, on a more personal level, the biases and barriers that have held women back in the past are crumbling. There is virtually nothing that a woman of your generation cannot aspire to. ~~All is possible.~~

That is not to say that you will not face challenges. Every generation must face them, and you will have yours.

~~And while we know we cannot achieve complete perfection here in this world, we also know that we must strive constantly to uplift the human condition.~~

- Even amidst our growing material progress, you will face the enduring challenge of the poor and deprived.
- You will face the challenge of the upsurge in violence, particularly among young people, in the home and in the streets.
- You will face the stubborn challenge of the drug culture which destroys dreams, destroys souls, destroys families and communities.
- And you will face the challenge, in an increasingly selfish age, of upholding the dignity of each human person and the sanctity of human life.

But

Perhaps the greatest challenge your generation faces is giving a name to this nameless age. We live in a strange time. It is a time of uncertainty and anxiety.

People do not know what to call it. Some call it the "post-Modern" age. Some wrongly call it the "post-Christian" era. Some refer to it as the "post-Cold War" period. But all of these descriptions simply refer to our time as coming after something we have a name for. Our age does not yet have a name of its own.

It is the actions of your generation that will ultimately determine what our age will be called. I believe that this challenge is, at bottom, a moral one.

In this age of extreme materialism, people are feeling a loss of meaning, a spiritual vacuum. That is why there is confusion and uncertainty. We see that even those who achieve fame and fortune feel empty and restless.

As Sacred Heart graduates, you are in a unique position to help lead society out of this blind alley. You have it in your power, by the way you live your lives, to lead the way ~~in renewing the moral basis of society~~, in recapturing our spritual bearings, and in restoring a sense of purpose, direction and confidence. You should relish taking on this historic challenge.

Now, I have been talking about the opportunities and challenges that face your generation collectively. Let me take this to a more personal level.

~~Maybe a few of you will be fortunate enough to be in a position where you can make earthshaking and sweeping decisions that will have an immediate impact on society as a whole. But you do not have to be in such a position to change the world.~~

As you know, and as you have demonstrated in your time at Stone Ridge, we all can change the world in our every day lives. What we do counts. We can make a difference.

~~And, by the choices we make, and the things we do, day-in-and-day-out, we can change things for the better. Indeed, that is how real and lasting change occurs, when enough people consistently do what is right in their every day lives.~~

It is from this perspective -- the choices we face in our own daily lives -- that I would like to leave you with some advice.

Specifically, there are three thoughts I'd like to share with you.

~~I have been fortunate to have many interesting experiences in life, and if I had time there are many suggestions I would like to share with you.~~

~~But as I have reflected on my experiences,~~ three things stand out as being the most important thoughts I could leave you with. I hope you find them useful in the years ahead.

The first has to do with this question : What is "success".

I believe that success is not a matter of what you get, but what you do.

I am frequently asked what is the most rewarding or meaningful experience I had at the Department of Justice. There is certainly a long list I could choose from, ~~critical cases, successful anti-crime programs, historic events like the invasion of Panama and the Gulf War.~~

But the thing that stands out in my mind is a harrowing incident when 120 ~~Cuban~~ ^{Violent} prisoners scheduled to be deported to Cuba took over a federal prison and seized ten men and women as hostages.

This was a group of ~~violent~~ criminals whom Castro had released from jail to come over here during the Mariel boatlift. ~~They had long criminal history records both here and in Cuba.~~ They were desperate and had nothing to lose since their demand was to stay in federal prison rather than be deported to Cuba.

They held the hostages at knifepoint and started to pull their names out of a hat to see who they would kill first to show they were serious.

Well, we tried to negotiate, but it was clear we could not give into their demands. By the ninth day I concluded that, ~~though I might be able to save 3 or 4 hostages by trading food,~~ our best chance of saving all the hostages was to launch a rescue operation. And so, ~~after much practice and preparation,~~ I ordered the FBI to retake the prison and rescue the hostages.

I will never forget the tension I felt sitting in the command post at 3:00 in the morning in the moments leading up to the assault. My heart was racing as I heard the massive explosions as the teams blasted their way through the prison walls, and I heard the crackle of the stun grenades that the agents threw as they rushed into the pitch black compound. And I waited for what seemed ages to be told whether the rescuers had reached the hostages in time.

When I was finally ^{fold} ~~informed~~ that hostages had been rescued without a second to spare, I felt ~~an indescribable rush of joy. And, later, when I met with the hostages and their families,~~ I experienced the greatest emotional high that I have ever experienced in my professional life.

When I reflect on why this particular incident is so meaningful to me, I have concluded that it is an example of what it means to meet your obligations.

I was responsible for those hostages, and thankfully I was able to meet that responsibility. It was a case in which the stakes were particularly high, but basically it was a case of trying to do your duty.

I am sure doctors feel similar satisfaction when they meet their responsibilities to a patient and save that patient's life. But for a lawyer, it was a pretty unusual and dramatic lesson of how important it is to do your duty well.

The fact is that in our every day lives we have responsibilities to individuals and to our communities -- we have obligations to our families, to our neighbors, to our employers, to our fellow citizens. They can be as fundamental as supporting our families, or as apparently routine as driving safely.

I think the successful person is the person who, at the end of the day, can say that they fulfilled their responsibilities to other people -- that they have done their duty -- in large ways when the occasion arises, but, just as difficult, in all the less noticeable ways we are called to every day. That is where true contentment lies.

And like Emerson we say:

So nigh is grandeur to our dust,
So near is God to man,
When Duty whispers low, Thou must,
The youth replies, I can!

2. My second bit of advice is this: Have the courage to stand by your principles.

In the years ahead, particularly at college, your beliefs and values are going to be challenged. And that is fine. Consider opposing viewpoints; think your way

through them. But reach your own decisions about what is true and what is not. Don't let other people tell you what to think.

One of the good things about your generation is that it is a little more skeptical than mine. You will probably be a less intimidated by the fact that someone is a professor than I was.

I will never forget my first day in English class at Columbia University. The professor announced that the whole purpose of the course was to ^{learn} ~~appreciate~~ the irrelevance of religion in the modern world. Just what this had to do with English Composition I still do not know. But I was pretty intimidated.

A lot of the students sort of knuckled under to this teacher, but there was a hardy band that fought him to the end of the year. At times he could be quite scornful of what we had to say.

I remember he announced that the topic of the final paper that was to count 50% of our grade was "The Irrelevance of Religion". I raised my hand and asked, "What if you do not agree with that proposition?" And, he said, "I would not expect you to, Barr. You write whatever you want."

I wish I could tell you I got an "A", but I did not.

Now, at college you may well encounter people like this who will suggest, in a hundred subtle and not so subtle ways, that to be really "with it" you have to forget about everything you have learned up till now and make yourself anew.

I think people like this are fools who are just trying to make themselves feel important. Real teachers, real scholars will not demean what you already have learned; they will build upon it; they will challenge your beliefs, but in a constructive way.

You have been given the building blocks of critical thinking, sound values, and good judgment. Be strong enough to apply them to new situations. Be true to your conscience.

~~*~~ ~~*~~ ~~*~~

3. The final thought I would like to share with you is this: Keep a healthy sense of perspective.

Some people describe life as like ascending a mountain peak. I do not like that analogy because it suggests a smooth ascent to the lofty height.

I think life is more like going along a rugged ridge line. It has its ups and downs and obstacles to overcome and you have to stick to the path and avoid slipping off the crest on one side or the other.

Life has its ups and down. You will have triumphs, but you will also have setbacks. And it is these down times that will test your metal.

When you fall (and we all do) that is when you have to get up, dust yourself off, grin, and keep going along the path.

I have had more setbacks and failures than I care to admit. Each one seemed like a calamity at the time. But things have a way of working out over the long run. Things that looked like disasters actually turned out to be opportunities.

not to veer to extremes

And as you navigate along life's path, its important ~~to keep your balance~~. Yes, life is a serious business -- and it is important to work hard. But life is also a great gift that we should enjoy, and it is good to take time to smell the flowers and to have some fun. ~~Keep your sense of humour~~. Its a question of finding the right balance.

And, above all, whatever life brings, keep your sense of humor.

And no one has ever accused this class of not having a sense of humor.

So let me close by once again congratulating you.

It has been an honor to watch you all grow & excel.

You are heading toward a challenge, but you have been well prepared for it.

Relax, work hard, but also have a good time.

God Bless You and Godspeed.

PANEL IV: DISCUSSION

DR. KELLING: Let me reassure Judge Sarokin that at least as of yesterday, when he drives into New York next time, there will not be any squeegee people there. It is very interesting how that problem was resolved or is being resolved. By the way, it was Commissioner Ray Kelly who was first concerned about the squeegee problem and asked me to come in and take a look at it. A lot of criminologists are interested in serial murders and things like that. I have been labeled with squeegee people and those kinds of things as being my preoccupation.

It was one of those problems that was fairly easy to resolve. In New York City, on the basis of certain kinds of offenses, you can give a desk appearance ticket. Desk appearance tickets were referred to as disappearance tickets by the police officers, because they would give them out, and the people would disappear and never show in court. The squeegee problem was resolved in New York City in a very simple way. When people did not appear, the warrant for failure to show went directly back to the police officer that gave the desk appearance ticket. The neighborhood police officer had a vested interest in trying to keep that neighborhood orderly. An arrest was made, and on the basis of maybe a night or two in jail, the matter was over.

I went the other day looking for squeegee people and could not find any. I was delighted by that and by the fact that there were no Draconian means used. There was a lot of emphasis on doing things in disciplined ways without harassment. It was straightforward law enforcement, and it dealt with the problem. Have we wiped out squeegeeing forever? No. Nevertheless, if we keep officers relatively vigilant but civil, it is a problem that is easy to manage just by simply using the authority that is already there.

I would like to share one interesting sideline and then begin down the road with the comments. A well-known civil libertarian offered to defend all the squeegee people for free. I happen, as a matter of fact, to think that was a great idea. What I wanted to do was to send some police officers over and get as many cards from this attorney that we could possibly get and distribute them to the squeegee people so that they could have adequate defenses. The Police Department thought that was a little overzealous, however, and decided I could not do that. Before we begin our question and answer session, each panelist will have some time for comments or rebuttals.

JUDGE SAROKIN: As a result of Justice Thomas' speech today, I gathered — and maybe I am wrong — that practically everybody in the

room agrees that it would be totally inappropriate for anyone to excuse criminal behavior on the basis of poverty, race, or a lack of education or opportunity. Yet, it seems to me that what is being said here is that the Constitution is the cause of crime. People seem to be arguing that because the courts are carrying out what I think is their responsibility to enforce the Constitution, it is really the Constitution in this country that is causing crime.

If we turn to the broken window concept, there is nothing in the Constitution or what the judiciary has done that bars the replacing of those broken windows. I just do not think that the existence or increase of crime is in any way attributable to the interpretation of the Constitution.

COLONEL GREENBERG: I do not know about the rest of you here, but I was born and raised in a segregated neighborhood, and I live in a neighborhood today which probably has about eighty percent blacks in it. I am obviously black myself.

I have never, as a police officer, teenager, or college student, engaged in a conversation with a crime victim in a black community who explained the criminal's behavior away on the basis of poverty or coming from a broken home. Through the fifty years of my life, I have never had such a discussion except with white professors when I was a student at Berkeley.

I have talked to some black politicians about it and even asked friends of mine that I went to college with, "Why do you go through all this crap?" And they say, "White people love to hear it." That is what they tell me. But I have never engaged in a conversation with anybody who was a victim of a crime, educated or uneducated, rich or poor, tall, short, whatever gender, who said the reason for that crime or a contributory factor was the fact that the criminals came from a poor home, a dysfunctional family, or they had not gotten a tricycle the same year all the other kids got one, or all of the other reasons that people come up with. I only hear this at universities. There is nobody in the community, in that inner city that people seem to be so concerned about, that ever discusses that.

JUDGE SAROKIN: I have never heard poverty as a defense in a case. Nobody is ever acquitted of a crime because of some difficult days they had in their background. The issue may relate to sentencing, though.

PROFESSOR BERGER: There has been implicit exaggeration, maybe by all of us, of the limits of permissible law enforcement activity. This is

hardly the time or the place for a disquisition on things like the Fourth Amendment. But I found Colonel Greenberg's example of the car with the idling motor very interesting as a case on the periphery. Maybe what law professors do, in addition to police chiefs, is talk about such peripheral cases.

I think there are millions of occurrences on the street where, in fact, officers are perfectly entitled to approach a possible perpetrator and, if the response is unsatisfactory, move on to the next level of intrusiveness. I strongly suspect that if these guys were real perpetrators, rather than just annoying jerks, they would have left because they would not have wanted to be remembered when they did, in fact, commit the burglary. I realize that this is small comfort to the woman involved in that particular story, but there are plenty of things that can be done on the street to enforce the law.

COLONEL GREENBERG: Could you name one of those things?

PROFESSOR BERGER: Do you mean one of the many fact-bound examples?

COLONEL GREENBERG: Yes. You said there were millions of them. I would like to know one of them where the police would have the authority to act before a person is victimized.

PROFESSOR BERGER: Well, take the case of *Terry v. Ohio*,¹ which involved a couple of people walking back and forth casing a store and which first established the stop and frisk power. I do not want my moving on now to be taken as a concession that I could not name you facts of cases or situations. It is just not true.

A lot of complaints about court decisions are based on idiosyncratic facts. *Papacristou v. City of Jacksonville*² does not govern every vagueness case. We are talking about federal courts here, whose judges until the last ten minutes were sixty to seventy percent appointed by the Bush and Reagan Administrations. These are your folks. These Bush-Reagan appointees and some state courts are making these decisions. This is not some vicious conspiracy perpetrated by the ACLU. Why do we win? As for vague laws applied to business people, interestingly enough I now represent alleged white collar criminals, so I have some sympathy. However, as the former Attorney General said, that somehow these laws

1. 392 U.S. 1 (1968).

2. 405 U.S. 156 (1972).

are injuring business people unfairly, and that there is a heavier hand applied in that area, then perhaps there is some political notion that those defendants are not that oppressed as a class and have a voice in society, whatever individual injustices there may be. When you are really talking about the wretched of the earth, whether or not they are immoral or bad people, one should tread rather lightly and carefully. They have less of a voice to complain.

Finally, a lot of us who “profess” have done many other things in our lives as well. We may profess at a certain point in our careers, but many of us have been and are practicing attorneys. With all due respect to the insights of Justice Thomas, Colonel Greenberg, and others, there are even some of us who are white who have been oppressed. Conditions were obviously very different, but I will say on a strictly personal note that a lot of my orientation stems from the fact that my family was oppressed in Nazi Austria. Without analogizing New York City or Charleston to Nazi Vienna, I believe we must recognize that some white people also have perspectives in this area, and they are entitled to speak from a position different from that of the oppressor. That is legitimate, without disrespect to anybody else’s insights or experiences.

MR. BARR: My point is not that we need to change the Constitution to deal with violent crime. We can do what we have to do within the Constitution, and not think the Constitution causes violent crime. Violent crime is caused not by physical factors, such as not enough food stamps in the food stamp program, but ultimately by moral factors. Social programs are not an ultimate solution to crime. Spending more money on these material social programs is not going to have an impact on crime, and, if anything, it will exacerbate the problem.

Part of our problem is the failure to set and enforce standards. In a healthy society enforcing standards should come mainly at a personal level. That failing, however, our society should be able to set and enforce certain minimal standards, and the jurisprudence of the last thirty years has seriously undermined our ability to do that. This makes it difficult for us to control crime.

DR. KELLING: The panel will now take questions. May I ask those of you who are really making statements, to at least try to put them in the form of a question.

QUESTION 1 (FROM THE AUDIENCE): Back in Irving Kristol’s good old days, when the Ames Brothers were singing, “Standing on the Corner Watching All the Girls Go By,” do-wop, wop-bop, and sub-bop, and

other great cultural events arose from people who might be called vagrants by some, we learned to distinguish between true vagrancy and people who were not vagrants.

It strikes me that we have plenty of tools today to make precisely that kind of distinction. When you point to the people who say that there are not enough police and the police will not do anything when we call them, it strikes me that they are raising very real concerns, but these are not concerns about the availability of legal tools. They are concerns about a police culture that strikes me as something that needs to be looked at much more closely than any lack of constitutional power to deal with real vagrants.

DR. KELLING: Ms. Berger, would you like to respond?

PROFESSOR BERGER: Well, I think I quit when I am ahead in court. Agree.

QUESTION 2 (FROM THE AUDIENCE): Mr. Barr, this question regards discretion, but not so much with the police powers as with the federal law regarding sentencing and bail with a greater emphasis on enforcement, which the states may look to shortly as a model. Do you think, sir, that it would be helpful to reopen both the reform efforts in those areas that we underwent in the 1980s, first, to close a prosecutor's discretion in the sentencing area where they are currently able to give more lenient sentences through plea bargaining, and, second, to open up bail reform to the kind of guidelines that we imposed on sentencing in the act that came after the Bail Reform Act in 1984?

MR. BARR: Yes. I am a proponent of the federal system which limits sentencing discretion and, at least in the Bush Administration, limited prosecutorial discretion to plea bargain. I would like to see the states during the 1990s move more towards the federal system.

There are a number of adaptations that could be made to that system, but the overall objective should be to have truth in sentencing so that the society knows the sentence that is going to be served. We should endeavor to increase the length of the average time served for violent offenders.

QUESTION 3 (FROM THE AUDIENCE): I am going to describe briefly a police action and ask Professor Berger if it was legal. I am also a Columbia graduate, and a former New Yorker. I came to New York City, walked out of the Pennsylvania Station, and there was a crisis situation

that suddenly developed on Seventh Avenue involving the squeegee people. They wanted to take money to get you a taxicab. Taxicabs were lined up on the street, and there was some guy sitting on the hood of the cab. There must have been a half-dozen guys, and everybody was standing back. Everything was paralyzed. The cabs were piling up.

Suddenly, the whole street was jammed. This seemed to materialize in two or three minutes. Then I saw what I thought was a wonderful police action. About four or five tall, mounted policemen appeared, grabbed these guys, shoved them out of there, and went around waving the cars to go by. In two or three minutes, they cleaned up a jam that, from my experience in New York, would have taken a long time to clear out. I thought that was great, but was it legal?

PROFESSOR BERGER: Let me make sure I understand. I take it these “obnoxes,” whom we all know, were essentially engaged in what we would informally think of as a kind of intimidation or extortion.

QUESTIONER: Well, they were just some guys who were sitting on the hoods of the cabs. Some guys were standing on the sidewalk saying, “Get you a cab?”

PROFESSOR BERGER: Sitting on the hoods of cabs? Of course, the police can make them get off the cabs.

QUESTIONER: There were others that were equally picked up and thrown out of there. They were just standing there saying, “Get you a cab, get you a cab?” They wanted you to hand them some money, and they would refer you to the cab that was there.

PROFESSOR BERGER: Since there seemed to be a police presence — and, as we all know, just getting somebody in authority is usually your worst problem — not finding a law in the books, but finding a cop — sure, the police can do something. They can get rid of anyone who is doing anything at all in relation to a cab. I am a little more concerned about what you do with people who are just standing and doing stuff. But if, in fact, the policemen go and take matters into their own hands and, in a sense, become dispatchers, that seems to me to make all the sense in the world.

I would simply add that even better than to have criminal laws is to have a good dispatching system like at Union Station. I do not see anybody bothering me there, and they do bother me in New York. So often noncriminal solutions are better, but most of what occurred here seems legal.

MR. BARR: I am very interested in the liberal fetish over removing any discretion from police officers. Yet, at the same time, liberals are willing to subordinate vast portions of our lives and the life of this country to bureaucrats when the only standards that guide bureaucrats is to regulate in the public interest.

The Clinton Administration is willing to give a bunch of bureaucrats the decision over whether I can get a dialysis if I am fifty years old. They are going to do it under some undefined standard, and they are willing to award all this discretion — regulatory discretion with no standards — to a bunch of bureaucrats. If it came to my life being regulated, I would rather be regulated by ten police officers picked at random from throughout the United States.

QUESTION 4 (FROM THE AUDIENCE): Of all the anomalies and dichotomies that I have heard today, the starkest contrast I have observed is that between the basic and fundamental humanism of Colonel Greenberg and your sophisticated split personality of a private citizen or a judge. Could you reconcile this for me please?

JUDGE SAROKIN: I do not think they are irreconcilable. I have concerns as a private citizen, and I think it is important for judges to address problems with those real world concerns at issue. On the other hand, every day of our lives we have to balance constitutional rights with those personal concerns. I think that it is the function of the courts to do that.

I do not think that it is a dichotomy that I cannot live with, but frequently what I would like to do as a private citizen in the examples I gave are unconstitutional. I mean, I would have liked to have gone and beaten up that person who was making these calls to my close friend, but that would not make it right or constitutional.

QUESTION 5 (FROM THE AUDIENCE): I have two quick quality-of-life examples for Professor Berger. The first one is the situation where people are begging near a cash machine, which presents the obvious intimidating fact to the people who are going and getting cash: You may get mugged.

The second one is about the homeless people, the real messed-up ones, who go into a public library where we cannot do anything about it, thereby destroying the public library as a place of quiet and study.

PROFESSOR BERGER: Well, as a point of personal privilege, I am going to refer the library question to Judge Sarokin because that was his case. Let me say on that one, I am not sure I agree with it.

With respect to the cash machine example, I will tell you, I wish I had all of you as my law students; you pose very good hypotheticals. Without attempting to evade, I think these issues are extremely fact-bound, and depending on slight variations in facts you can go from “Gee, one can’t do anything right now” to “It is virtually an attempted larceny.”

I would say, though, I do not see anything wrong with creating a specific, targeted law simply saying that nobody who does not intend to use a cash machine can come within X feet of it. This is less discretionary. However, it would be better to create lobbies where your bank card opens the door, where the average homeless person cannot get in. Look at possibilities of alternative solutions that do not involve these problems.

There often are alternative solutions with which, in the end, everybody may be happier.

JUDGE SAROKIN: Let me just say I have taken more heat over that library decision than anything in my life. Maybe I deserved it.

There were just two aspects of that decision. The first was that I ruled that the First Amendment gave persons rights of access to the library, and that was affirmed by the Third Circuit. And I hate to say this in front of Bill Barr, but the second part of that decision was that I thought the regulations were vague, and the Third Circuit held they were not.

I never ruled that there could not be circumstances under which people could be barred from the library. All I said was if you are going to do it, not only for the protection of people who are using it, but for the libraries, the terms and conditions ought to be made very clear so that everybody knew where they stood.

COLONEL GREENBERG: Professor Berger pointed out earlier that we could enjoy more discretion in law enforcement if we were only somehow better educated. Of course, police officers are educated better today than they have ever been. I guess you can say that about lawyers as well. I wish our education was extensive enough that every police officer was a lawyer, then at least there would be no innocent parties in a criminal justice system at all.

QUESTION 6 (FROM THE AUDIENCE): My question is about the Eighth Amendment’s Cruel and Unusual Punishment Clause, and it is for anybody on the panel that wants to take a stab at it.

When Justices Brennan and Marshall told us that the death penalty was *per se* unconstitutional because it violated the Cruel and Unusual Punishment Clause, they did so on the basis of an interpretation of that clause which invoked evolving moral standards. I think the implication of this was that there was a kind of ratchet effect at work here, meaning that the Cruel and Unusual Punishment Clause demanded that punishments would become evermore kind and gentle, but that they would never move in the opposite direction.

The public, judging from its reaction to the recent caning episode in Singapore, seems to be prepared to accept harsher punishments rather than kinder and gentler ones. My question is, how should we interpret the Eighth Amendment's Cruel and Unusual Punishment Clause now, and what kind of punishments should we be thinking about?

PROFESSOR BERGER: I deal with cruel and unusual punishment all the time as a death penalty litigator. But in the present context, the Cruel and Unusual Punishment Clause, whether used or misused — I am not so sure it is so apt here — comes from *Robinson v. California*.³ *Robinson* struck down a California law that essentially made the status of being a drug addict a crime, and was thus not a death penalty decision.⁴ It contained a bunch of messy opinions, but basically said that being a drug addict was a status or an illness, for which a state could not mete out punishment.⁵ To do so would be like punishing someone for having a common cold.

I think the jurisprudence that has developed in this area attempts to analogize and say that some of these laws punish people for the status of being homeless or poor. I am not at this point prepared to say that is a great argument or it applies in every context, but that line of jurisprudence has worked in this area at times.

As far as “evolving standards of decency” jurisprudence, as a death penalty litigator, sometimes I have been troubled myself for the very reason that you state. It is not just the notion that everybody loves capital punishment or caning. It is troubling to incorporate into a protection of the Bill of Rights a majoritarian notion, since the whole Bill of Rights was meant in significant ways to be counter-majoritarian. There is a lot of history here. I am not sure why this line of jurisprudence has developed. All I can say is, frankly, at times it has troubled me too. It is a good point.

3. 370 U.S. 660 (1962).

4. *Id.*

5. *Id.*

QUESTION 7 (FROM THE AUDIENCE): Judge Sarokin, I have in mind the Menendez case. You might argue that there was not an acquittal in that case, because there was simply a hung jury. Nevertheless, it was the ability of the Menendez boys to claim child abuse before a jury, which had gone to school with Oprah Winfrey, that troubles me. I have written an article about this in *Commentary* called "Getting Away with Murder." They got away with murder.

I expected in writing that article that I would be deluged with letters complaining about it. As a matter of fact, I was not. One of my correspondents even said that what is at fault here is the whole jury system.

When we have juries who have gone to school with daytime television people and have learned about victimization of all sorts, where every parent is an abuser of a child, every single one, that is a problem. The end may be the end of the jury system. In that respect it will be somewhat similar to Northern Ireland. That country had to do away with the trial by jury in 1973, as I recall, simply because of a terrible split between Protestants and Roman Catholics.

What we face today is a split between whites and blacks and women and men. We may be forced to say "goodbye juries," goodbye to that fundamental rock of Anglo-Saxon jurisprudence.

JUDGE SAROKIN: Well, first of all I agree. I think the Menendez case is both a good and a bad example. Speaking mainly from my own experience of twenty-five years of trial work and then fifteen years on the court, I have never seen that type of a defense even asserted, much less succeed. I think the Menendez case is certainly a valid example of it happening.

However, I happen to be a great believer in the jury system. Juries are remarkable even though they are exposed to this type of publicity. I would rather have twelve jurors deciding a criminal case than me. The reason is I do not want that responsibility. And I do think that twelve people coming from different walks of life do a much better job in deciding guilt or innocence.

DR. KELLING: I am sorry, questioners. I have been urged to wrap the session up, and I have been asked to request that each panelist to make a one-minute comment. Thank you for your cooperation.

JUDGE SAROKIN: I very much enjoyed being here. Thank you for being so kind to me.

PROFESSOR BERGER: This kind of high-level exchange, which I think is terrific, between people of rather different viewpoints, can illustrate areas of agreement as well as disagreement. I hope we can find some forum, not a speaking forum, to sit down and figure out what to do about some of these problems. Arguing and debating is a lot of fun, but we all see the problems. We are all concerned about them. I think the task for the twenty-first century is to do something about solving some of them.

COLONEL GREENBERG: I believe that people who have various types of positions — and you have just heard a few of them this afternoon — with respect to the rights of people, particularly with respect to the topic we are talking about now, have good intentions. I would like for people, for those of you, and for us — and that includes me as well — to keep in mind that very often what we think is good for us, because we would prefer it ourselves, sometimes can be very much counter-productive for others. There are other people in the world who are capable of creating their own problems. They do not have to have problems created by somebody else from somewhere else, and there are people who can provide their own solutions as well.

MR. BARR: Thank you. I have enjoyed participating on this panel.

DR. KELLING: I want to thank the audience for its discipline, and I want to thank the panel for its discipline.

Budd re-elected head of Republican group

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Body

Budd re-elected head of Republican group.

The GOP's top brass and high-ranking black Republican Wayne A. Budd celebrated their party's congressional and state victories of last month's election at the 127th annual meeting of the Middlesex Club on Dec. 2, at Anthony's Pier 4. A record number of nearly 300 persons attended the luncheon, where members approved the nominating committee's slate of officers for the coming term and reelected Budd as president of the Republican organization.

William Barr, former attorney general of the United States under former President George Bush, was guest speaker. Discussing "The Challenge and Opportunities We Face," in his assessment of last month's balloting, Barr said the people's switch to the GOP could be attributed to dissatisfaction with incumbents, a demand for accountability and responsibility in government, voters desire for governmental actions that bring a better fit with local needs and the wish for a government committed to the public good.

"The people wanted policies that give the sentiment of benevolence, of wanting to help, a government that recognizes the needs of people nationwide," said Barr.

The former attorney general supported the idea of government that would cater to the middle class and not rely on centralization of big bureaucracy. To support big government, Barr said, "The average person works five months a year. The GOP will reduce the power of central government and return to people power. The election corresponds to a change in political government and gives independence to us.

"It does not pander to inner insecurities," he continued. "We seek basic structural reform to place a comprehensive clasp on what the federal government takes. This is an exciting time to be a Republican. We can play a vital role in restoring this great republic."

Budd re-elected head of Republican group

Barr was the 77th attorney general of the United States, appointed by President Bush in 1991. Both Gov. William Weld of Massachusetts and Budd worked with him, with Budd the third highest ranking official on Barr's staff and then the highest ranking black in the Justice Department. Budd served under him as associate attorney general during the case of the Rodney King beating in Los Angeles. He also led the department's effort against white collar, environmental and other such "bloodless" crime.

Upon his return to Boston, Budd became the first African American to be elected president of the historic Middlesex Club, founded in 1867, the oldest Republican Club in the nation. It was organized by a group of Bay State activists who desired to further the principles and causes of the Republican Party. All the founders were residents of Middlesex County.

Throughout its history this club has attracted the most prominent leaders of the GOP as speakers. Recent speakers have included three former presidents, Richard Nixon, Gerald Ford and George Bush. Ulysses S. Grant, the first Republican president elected after the assassination of Abraham Lincoln, was an early speaker. The club's most noted tradition is that of holding the annual Lincoln Day Dinner, now sponsored by party organizations throughout the nation.

Budd was nominated to serve his second term as president of the Middlesex Club at Friday's annual luncheon session by the nominating committee chaired by James I.F. Matthew, a past president.

Black members of the 45-person board of directors are Priscilla Douglas and Marilyn Rollins, terms expiring in 1996, and retiring board member Michael Murphy.

Gov. Bill Weld spoke briefly at the luncheon, paying tribute to party members elected to national, state and local offices. Ralph C. Martin II was praised for his election as district attorney of Suffolk County. He was praised for carrying the election in every area except South Boston, where he still made a strong showing. Last spring he was the Lincoln Day orator. He spoke briefly, saying in part, "I see many of my supporters in this audience. I thank you all for backing me in that important race in Suffolk County. Despite conventional wisdom, you supported a black Republican from Brooklyn, N.Y. I shall support your confidence by doing a good job with the backing of a good organization.

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Graphic

Budd re-elected head of Republican group

Photo, Attorney Wayne Budd

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GOP GOVERNORS EAGER TO DO THINGS THEIR WAY; MAIN
REQUEST TO CONGRESS IS TO LOOSEN FEDERAL REINS

Dan Balz

WILLIAMSBURG, NOV. 21 -- It is a debate as old as the country itself, but the 1994 midterm elections have breathed new life into the movement to shrink the federal government and restore power to state and local governments. Republican governors meeting here this week say the election of a Republican Congress offers a historic opportunity to transform what has largely been a philosophical debate into a practical experiment that could dramatically alter relationships between Washington and the states. "I think the relationship between the states and federal government is due for a complete reappraisal, and I think that's beginning right now," said Michigan Gov.

John Engler (R). But the fight now brewing grows directly out of conflicting interpretations of what the Republican earthquake two weeks ago meant. Did voters signal that they wanted leaner, more productive government in Washington -- in essence the reinvented government President Clinton has promised? Or were they saying Washington isn't working and needs to shed some of its responsibilities? Most governors are clear about where they come down. Governors such as Engler and Wisconsin's Tommy G. Thompson, who have attacked the education and welfare issues in their states, have been aggressive in arguing that they can do more to solve many domestic problems if they are freed of restrictions or requirements mandated from Washington. "I can go right through the federal budget and the domestic programs, and most of them would benefit from having stronger state and local participation in the actual design and administration," Engler said. Thompson, whose state has been a leader in reforming welfare, said, "There's no doubt in my mind that I will be able to develop a better welfare reform package that will help more citizens and accomplish greater independence and opportunities for individuals to get off of welfare than if Washington sets all of the requirements." That is the message Republican governors have been sending to their congressional leaders in Washington and they are anxiously awaiting an answer from Senate Republican leader Robert J. Dole (Kan.) and House speaker-to-be Newt Gingrich (R-Ga.), who are scheduled to speak here on Tuesday. Governors have a series of steps they hope Dole and Gingrich will begin to implement, beginning with relief from unfunded federal mandates. Ohio Gov. George V. Voinovich (R) has put together a set of priorities, from block grants to welfare to health care, where he said the elimination of federal restrictions could make a major difference in efficiency. Most governors here agree with Massachusetts Gov. William F. Weld (R), who said on NBC's "Meet the Press" Sunday that in the new Congress there will be "more of a mood to give us our head and let us run." But privately they are wary about just how much relief they will get, particularly from the Senate. The debate has facets beyond relief through legislative action in Congress. Former U.S. attorney general William P. Barr addressed the governors at lunch today and outlined avenues open to them to press their drive to whittle away at the power of government in Washington. Through litigation, he said, states can try to regain powers that he said are inherent in the 10th Amendment but that have been eroded over the years. He said the judicial climate today is far more favorable to the states than it was a decade ago. More than that, he said, states could press for a constitutional amendment to

make it easier for them to initiate constitutional amendments by making it lawful for an amendment to be originated by the support of two-thirds of the states. Governors are aware, however, that by triggering a more serious fight over the distribution of power, they risk having local governments demand greater freedoms from state restrictions. Texas Gov.-elect George W. Bush, who plans to propose changes that would free local school districts from state control, said governors risk the wrath of voters if they appear hypocritical on this issue. "It is not right for governors to say leave us alone and then not do the same thing to local entities," Bush said. New Hampshire Gov. Steve Merrill (R) said Republicans run the risk of voter backlash in 1996 if they are not bold enough about restructuring government. "If newly elected Republican governors believe merely a Republican spin on Democrat government is going to do it for them, I think they're mistaken," Merrill said.

---- **Index References** ----

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NewsRoom

Environmental Law Society Hosts Panel



Photo by MICHAEL FIORENTINO

The Environmental Law Society hosted a panel of four young, new environmental law attorneys on the evening of

Nov. 17.

Jody Rosenberg of the Pennsylvania Department of Environmental Resources brought the perspective of the regulatory agency to the table. John Stephen of Conservation Resources Inc. represented the public interest field. Pamela Schmalz of Doepken, Keevican, Weiss & Medved, P.C., and Mark Farley of Kirkpatrick & Lockhart spoke on the practice of environmental law at a large firm.

Ms. Rosenberg and Mr. Stephen each commenced their law careers at large firms but say they were dissatisfied with their ability to improve society in their view from within those firms.

Ms. Schmalz and Mr. Farley stated that much of their work consists of advising clients on achieving or maintaining compliance with complex environmental statutes and regulations.

Mr. Farley rendered the best sound byte of advice for interested students: become knowledgeable in as many environmental statutes as possible rather than seeking to master one particular law.

Federalist Society Formed; Former Atty. Gen. Speaks

Few would argue that the academic climate in American law schools is dominated by a form of orthodox liberal ideology. Unfortunately, these views are often taught in conjunction with and indeed as though they were the law. In April 1982, in response to this pervasive liberal indoctrination, a small group of law students from Harvard, Stanford, Yale and the University of Chicago organized a symposium on "Federalism: Legal and Political Ramifications." This was the genesis of The Federalist Society.

Subsequently, the society has grown to 130 law school chapters and has more than 4,000 national members. Lawyers division chapters are in 40 cities, including Pittsburgh.

The Federalist Society is founded on the principle that the state exists to preserve freedom, that the separation of governmental powers is central to our Constitution, and that it is emphatically the province and duty of the judiciary to say what the law is, not what it should be. Among the goals of The Federalist Society are the reordering of priorities within the legal system to place a premium on individual liberty, traditional values and the rule of law. Such goals may best be achieved by impressing the importance of these ideals upon law students, and in doing so create a conservative intellectual



Photo by DALE PROVINS

The Honorable William P. Barr speaks to a full house at Duquesne.

network that can exist and flourish in all levels of the legal community.

The Federalist Society chapter at Duquesne was started when nearly 100 students were addressed by the 77th attorney general of the United States, the Honorable William P. Barr. Attorney General Barr was appointed by President George Bush.

Mr. Barr spoke of his experiences at the Department of Justice as the chief law enforcement officer and legal advisor to the president and U.S. government. He

related personalized accounts of several law enforcement operations during his tenure, including a successful resolution of the prison riot and hostage taking by Marcel Cubans at the Talladega correctional facility; federal law enforcement operations to restore order in St. Croix after Hurricane Hugo; and law enforcement aspects of Operation Just Cause in Panama.

The attorney general then took questions from the audience ranging from current topical legal issues such as methods of combatting violent crime to the more philosophical inquiries like how the legal profession can polish its image in the eyes of the public.

The Duquesne Federalists are devoted to creating an environment and establishing a forum where topical legal issues and philosophies can be explored and debated. For those of you who missed Attorney General Barr's speech, look for upcoming similar Federalist Society events, and if you would like to become a member of the Duquesne Federalists, or learn more about the Society or future events planned, please drop a note into The Federalist Society mail box.

TIMOTHY M. ZIEZIULA, *third year day*

6/23/94 Wash. Times (D.C.) A4
1994 WLNR 248911

Washington Times (DC)
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June 23, 1994

Section: NATION

Conference warned of huge increase in violent crime during next 10 years

Ralph Z. Hallow - THE WASHINGTON TIMES

Criminal violence, already intolerable for inner-city families, will get worse, despite claims that the problem is overblown, former Attorney Gen. William P. Barr said yesterday.

"People who oppose criminal justice reform are claiming violent crime actually isn't all that serious a problem," he told the first National Conference on Criminal Violence at the Washington Court Hotel.

"In fact, violence increased at least fivefold over the past 25 years, and we haven't seen anything yet - a lot worse is coming," he told some 200 people attending the daylong forum organized by the National Rifle Association's Crime Strike division and a coalition of 21 other groups.

Mr. Barr, President Bush's attorney general, predicted a surge in the next 10 years in the most violence-prone age group of 15- to 24-year-olds.

His audience included representatives of such conference co-sponsors as the American Legislative Exchange Council, the American Conservative Union, the Cato Institute and the Congress of Racial Equality.

Mr. Barr faulted most states for permitting revolving-door justice that lets violent criminals serve short sentences, go free, commit more violence and repeat the cycle.

Organizers said the conference title was intended as a jab at a conference beginning today titled the "First National Conference on Gun Violence." Sponsors include the American Bar Association, the AFL-CIO, the Children's Defense Fund, Handgun Control Inc. and the National Education Association.

"They focus on guns as the cause of violence, and we focus on criminals as the cause," Crime Strike Chairman Richard D. Sellers said.

Mr. Barr was "very disturbed by the attempt to hijack criminal justice reform down what I think is the blind alley of gun control." He ridiculed people who "blame an inanimate object" like a gun for violent crime.

"To me, those who talk about gun control as the solution is like yuppie parents who have this out-of-control monster who runs around the house kicking people in the shins, breaking the china and pulling the tablecloth off," Mr. Barr said. "And the parents, instead of dealing with the little terrorist, go running after him, moving everything out of his way."

Washington lawyer Carl Rowan Jr. lambasted the D.C. government, its past mayors and its current leader. "Washington under home rule has been a case study in how to ruin criminal justice," he said.

Mr. Rowan noted that the D.C. Council has passed "three-strikes-and-you're-out" and "truth-in-sentencing" bills that Mayor Sharon Pratt Kelly has opposed, and added, "I dare the mayor not to sign them."

Mr. Barr urged rejection of the "primacy of root-cause solutions. Every year since 1965 we've been pouring more resources into 'root causes.' Today the average taxpayer spends about \$3,000 on means-tested anti-poverty programs. The government spends over \$300 billion a year on these programs."

He recalled visiting a Fort Worth, Texas, housing project that police had just cleansed of drug-dealing gangs. "This 72-year-old woman came downstairs crying, kissed me and said: 'God bless the police. Please don't leave. I've been living on the floor for the last week, crawling around because of gunfire coming through the windows.'

"Well, what do you tell a woman like that? Spend another 20 years crawling on the floor and pay more taxes? No. She deserves protection today," Mr. Barr said.

D0050382-062394

---- **Index References** ----

Company: AMERICAN BAR ASSOCIATION

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (AMERICAN BAR ASSOCIATION; AMERICAN CONSERVATIVE UNION; AMERICAN LEGISLATIVE EXCHANGE COUNCIL; CATO INSTITUTE; CIO; CONGRESS; HANDGUN CONTROL INC; NATIONAL CONFERENCE ON GUN VIOLENCE; NATIONAL EDUCATION ASSOCIATION; NATIONAL RIFLE ASSOCIATION; RACIAL EQUALITY; WASHINGTON COURT) (Barr; Bush; Carl Rowan Jr.; Richard D. Sellers; Rowan; Sharon Pratt Kelly; William P. Barr)

Edition: Final

Word Count: 689

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NewsRoom

Panel on violent crime urges tough approach on criminals; SOCIAL ISSUES: Officials and the public discuss ways to toughen penalties.

Orange County Register (California)

May 26, 1994 Thursday, MORNING EDITION

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Section: METRO;

Length: 268 words

Byline: JEFFREY MILLER, The Orange County Register

Dateline: FULLERTON, CA

Body

Among the most debated questions at Wednesday's National Policy Forum on Violent Crime: Is the crime problem really getting worse?

State Attorney General Dan Lungren said no, that the crime rate is lower today than it was in 1980.
Gwen Kurz of the Orange County

Probation Department said her office's caseload has increased dramatically. Former U.S. Attorney General William Barr said crime had fluctuated since 1980 and had leveled off the past few years.

But all the panelists, and many of the 50 audience members, agreed on the key to fighting crime: get tough.

Lungren defended the "three strikes" law, which mandates that a criminal whose rap sheet includes two serious or violent felonies be sentenced to life for a third felony conviction.

Several audience members said the United States could learn something from some countries with sterner laws.

"The reason people in Japan and Singapore do not commit violent crime is they are deathly afraid to," said Sgt. Dave Hiersekorn, a Marine at El Toro Marine Corps Air Station.

Richard Halvorson of Orange was one of several relatives of crime victims who shared their grief and frustration.

"He got eight months and was out in four," Halvorson said of the man who killed his son, Steven, in 1987. "We need these violent criminals put away. When you give your child up, you don't know how it tears you up. "

Panel on violent crime urges tough approach on criminals;SOCIAL ISSUES: Officials and the public discuss ways to toughen penalties.

Load-Date: March 17, 1997

End of Document



Monika Mraz, Christopher Viney, and Kirby Lee celebrate their impending graduation with a glass of champagne.

Former U.S. Attorney General in the Bush Administration, William Barr, receives the Distinguished Alumni Award this Commencement.



Rear Admiral Louise Wilmot received the Distinguished Alumni Achievement Award for her accomplishments in the Navy. She was the highest ranking woman in the Navy and the only woman to date to command a U.S. Naval Base.



4/6/94 Columbus Dispatch (Ohio) 04E
1994 WLNR 5160971

Columbus Dispatch (OH)
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April 6, 1994

Section: NEWS

REPUBLICAN GROUP'S FORUM DRAWS SUGGESTIONS
MEETING SOLICITED IDEAS ABOUT SAFE, PROSPEROUS AREAS

Graydon Hambrick, Dispatch Staff Reporter

U.S. Rep. Deborah D. Pryce got an earful of suggestions last night at a public meeting in which people outlined ways to make their neighborhoods safe and prosperous.

The meeting was dubbed "Listening to America," one in a string of town meeting-like sessions at 60 sites nationwide where politicians and public officials speak, then listen to constituents' comments.

It is being sponsored by the National Policy Forum, an offshoot of the Republican National Committee, said Chandler van Orman of Washington, the senior forum director.

Pryce, Columbus Mayor Greg Lashutka and former U.S. Attorney General William Barr were hosts for the Columbus forum at the Fawcett Center for Tomorrow.

The Columbus forum focused on the related issues of neighborhood development and safety. After lengthy comments by separate panels of public officials and community leaders on the respective issues, some of the 100 or so people in the audience took their turns.

"It's high time we got back to the communities we are supposed to be representing in Washington," said Pryce, R-Perry Township.

For example, Keith Lindsey of Hilliard told Pryce it is rather ridiculous for local communities to send money to Washington, via taxes, only to have Washington return it to the communities as development grants.

"I couldn't agree with you more," Pryce said.

Suggestions for helping develop neighborhoods included greater investment in the development of a mass transit system, setting firm standards for property upkeep and safe schools where the teacher is in charge and where disruptive students are dealt with harshly.

Among other safety panelists, Terry Townes, South Linden Area Commission chairman, described how his area was able to reduce crime through citizen involvement and residents' cooperation with police.

And Mark Hatch, a member of the Columbus Board of Education, told about the 3 1/2-year-old Community Crime Patrol that works in the Ohio State University area.

Since the patrol began, Hatch said, random assaults in the area have decreased and a number of crimes have been reported to police by "civilian" patrollers.

A police officer and another audience member both asked what many others before them have said: Why can't criminals serve full sentences imposed by courts, including the death penalty?

--- **Index References** ---

Company: COMMUNITY CRIME PATROL; OHIO STATE UNIVERSITY

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (COLUMBUS BOARD; COMMUNITY CRIME PATROL; FAWCETT CENTER; LINDEN AREA COMMISSION; NATIONAL POLICY FORUM; OHIO STATE UNIVERSITY; REPUBLICAN GROUP; REPUBLICAN NATIONAL COMMITTEE) (Deborah D. Pryce; FORUM DRAWS SUGGESTIONS MEETING SOLICITED IDEAS; Greg Lashutka; Hatch; Keith Lindsey; Mark Hatch; Pryce; Terry Townes; William Barr)

Keywords: KEYWORDS: POLITICAL MEETING

Edition: Home Final

Word Count: 457

End of Document

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NewsRoom

- ① Rightfully, leading issue
- ② No more grave problem
- ③ Last several years, unprecedented increase 28% since 1987.

Violent Crime ^{④ Higher than national increase.} in Virginia

~~Violent crime increased by 28% in Va. unprecedented over past 4 yrs.~~

increase
from
nat.
avg.

The George Allen Plan for Abolishing Parole

→ Principle reason for this surge
 One of worst revolving door - violent criminals
repeating offenses 25% convicted of violent crimes are
 committed by repeat offenders

Va. one of most liberal states in granting parole

- 67% paroled / national 47%
 → 28% sentence served / 37%

MST says she avoids easy answer. ^{more accurate.} She avoids any answer.
 There is no way to decrease crime unless
 we slow down the revolving door and keep
 violent criminals of street.

it feel
you his
best of
answer

Allen's proposals go right to the heart of the
 problem. ^{Frankly} they are responsible and effective. ^{Approved his leadership!}

→ Follow what we have done
 at federal level - ^{criminal} ^{feared} ^{fed} ^{system}
 → 20 states have done



- Abolish parole
- Limit good time
- Truth in Sentencing / ~~admit~~ sentence
- Jury Right to Know

May Sue Terry was A.W.O.L. in the war on violent crime - she did nothing. I've worked with many Democratic state AGs - silence from Virginia.

→ Death penalty ⇒ did not fight for death penalty

→ W+S (Richmond) Tilgner 13 ^{yr.} before about 2 yrs
~~no~~ no help from Ms

→ Proposals on ~~parole~~ ^{revolving} are laystate pitiful

→ no suggests on limited parole

→ good time doesn't have impact

	<u>current</u>	<u>Terry</u>	<u>Allen</u>
Rape	4.5	3	7.5
2nd Murder	5	1.25	9.4

Allen has ^{clear} principles and clear plan

- - First duty
- Plan first

→ will have results.



- neither hide nor hair
- asleep at Scratch

To join George Allen's Campaign for Virginia, please call or write:

George Allen for Governor
 (3311 West Broad Street, #200)
 Post Office Box 17704
 Richmond, Virginia 23226

(804) 353-8767

~~is~~ responsible.

I look forward to day when Va. ~~has~~ ^{has someone} who is dedicated ~~to~~ ^{whose} ~~is~~ ^{is} ~~strong~~

~~leadership~~
~~more~~

~~self-serving~~
neglect.

to making us safer

- Deems
- La. N.J.
 - Miss
 - Texas
 - Ohio
 - Alabama

3/29/94 Daily Press (Newport News, VA) B1
1994 WLNR 4492048

Daily Press
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March 29, 1994

Section: Local

WEIGHING THE PRICE OF ABOLISHING PAROLE
SAVING MONEY VS. SAVING SOCIETY

BARRY FLYNN Daily Press

Private contractors might supervise many non-violent criminals who would never see the inside of a prison so that the prison terms of violent convicts could be extended, a high-ranking member of Gov. George Allen's administration said Monday.

The governor's parole and sentencing commission is considering a range of cheaper alternatives to the approximately \$18,000 a year it now costs to hold a prisoner in a traditional jail cell, said Jerry W. Kilgore, Allen's secretary of public safety.

These alternatives could include "community-based punishment" such as electronic monitoring, daily reporting and halfway houses, Kilgore said.

"We've got to look at privatizing many of these services" if the state tries them, he added. This is necessary "so that we haven't created an entire bureaucracy that we can't get rid of," he said.

Kilgore was part of a panel discussion on abolishing parole held at the College of William and Mary Monday night. Allen plans to call a special session of the General Assembly in September to take up his plan to end parole for violent criminals.

Abolishing parole would effectively extend many prisoners' sentences far beyond what they now serve and thus sharply increase costs of the state prison system.

While acknowledging an end to parole would drive up the costs of the state's prison system, Kilgore added: "We actually won't have to come up with the money until 2004, 2010." That's because the effects would not be felt until new prisoners become eligible for parole years from now.

However, neither Kilgore nor William P. Barr, a former U.S. attorney general now serving as chairman of Allen's parole commission, could estimate how much might be saved by using community-based punishments for less dangerous criminals.

Barr said out of 7,500 new admissions to the prison system, 1,700, or about 22 percent, are for larceny and fraud - non-violent crimes. However, he added that those non-violent criminals typically pass through the system's "revolving door" faster than others and so end up representing even a smaller percentage of the prison population.

He also argued that longer sentences reduce crime and save society far more than it costs to keep those prisoners locked up.

"It saves money" to keep prisoners in jail longer, he said. "But even if it doesn't save money, it's a cost we have to meet."

Panelists for the discussion were Gene M. Johnson, state deputy director of corrections; Margaret P. Spencer, an associate professor at W&M's Marshall Wythe School of Law; John F. McGarvey, a lawyer who represents prisoners; William P. Barr, a former U.S. attorney general; and Jerry W. Kilgore, state secretary of public safety.

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--- **Index References** ---

News Subject: (Legal (1LE33); Judicial (1JU36); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (COLLEGE OF WILLIAM; MARSHALL WYTHE SCHOOL OF LAW; SAVING SOCIETY) (Allen; Assembly; Barr; Gene M. Johnson; George Allen; Jerry W. Kilgore; John F. McGarvey; Kilgore; Margaret P. Spencer; Mary Monday; WEIGHING; William P. Barr)

Edition: Final

Word Count: 541

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NewsRoom

10/25/93 Times-Picayune A2
1993 WLNR 883334

New Orleans Times Picayune
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October 25, 1993

Section: NATIONAL

CAN'T LEGISLATE CRIME AWAY, OFFICIALS SAY

The Associated Press

SAN FRANCISCO

President Eisenhower's attorney general Former U.S. attorneys general don't think their office has much direct effect on crime and doubt that passing more federal laws will do much good.

"We all had a shot at it. . . . I don't think Janet Reno is going to be any more successful than we were," William Rogers, attorney general under President Eisenhower from 1958 to 1961, said at a weekend forum.

"If the attorney general's office really has any significant impact on crime in the United States, then everybody on this platform . . . was a miserable failure," said Ramsey Clark, President Johnson's attorney general from 1967 to 1969.

They appeared Saturday at Hastings College of the Law's second annual Attorneys General Forum.

The only evident dissent came from Edwin Meese, President Reagan's attorney general from 1985 to 1988. He said crime dropped perceptibly during Reagan's first term, from 1981 to 1985, and credited Reagan's law enforcement policies.

A more likely reason was a decline in the number of young people between 1981 and 1985, countered Nicholas Katzenbach, who served under Johnson from 1965 to 1967.

But both Meese and William Barr, President Bush's attorney general in 1991-92, agreed with the two Democrats on the panel in criticizing efforts to increase the number of crimes covered by federal law. Meese said carjacking, for example, was being addressed by the states, but was made a federal crime for "political reasons."

The panel members disagreed about crime policy.

Clark and Rogers called for more gun control measures, but Barr said current gun laws aren't being enforced. "I think it's pretty hollow to say that by passing more gun laws we're going to do anything about crime," Barr said.

His predecessor, Dick Thornburgh, who served under Reagan and Bush from 1988 to 1991, said that when he was governor of Pennsylvania he reduced violent crime 19 percent with mandatory imprisonment laws and a 30 percent increase in prison cells.

Clark responded indignantly, saying the United States already imposes "the harshest prison sentences in the world" and has increased the federal prison population fivefold since the 1950s without slowing the rise in crime.

---- **Index References** ----

News Subject: (Crime (1CR87); Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Criminal Law (1CR79); Automobile Crime (1AU99))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (HASTINGS COLLEGE) (Barr; Bush; Clark; Dick Thornburgh; Edwin Meese; Eisenhower; Forum; Janet Reno; Johnson; LEGISLATE CRIME; Meese; Nicholas Katzenbach; Ramsey Clark; Reagan; Rogers; William Barr; William Rogers)

Edition: THIRD

Word Count: 445

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NewsRoom

NewsRoom

10/9/93 Hous. Chron. 2
1993 WLNR 4831935

Houston Chronicle
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October 9, 1993

Section: RELIGION

Bishop to celebrate annual 'Red Mass'

Bishop Joseph Fiorenza of the Roman Catholic Diocese of Galveston-Houston will celebrate the annual "Red Mass" at 5:30 p.m. Thursday at Sacred Heart Co-Cathedral, 1111 Pierce.

The Mass is dedicated to lawyers, judges and law faculty members.

Former U.S. Attorney General William P. Barr of Washington, D.C., will be the featured speaker at the annual dinner after the Mass to be held at 7:30 p.m. at the Houston Club. For information, call James E. McNerney at 623-0887.

--- Index References ---

Region: (USA (1US73); Americas (1AM92); North America (1NO39); Texas (1TE14))

Language: EN

Other Indexing: (HOUSTON CLUB; ROMAN CATHOLIC DIOCESE; SACRED HEART CO) (Bishop; James E. McNerney; Joseph Fiorenza; William P. Barr)

Edition: 2 STAR

Word Count: 95

End of Document

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NewsRoom

Macy Called "True Patriot" at Fund-Raiser

CHAROLETTE AIKEN

Published: Wed, September 29, 1993 12:00 AM

Stern words over the failure of national leaders to deal quickly with a rising crime rate brought applause from supporters who gathered Tuesday at an appreciation dinner for Oklahoma County District Attorney Robert H. Macy.

Testimonials from former U.S. Attorney General William P. Barr and district attorneys from Texas and Nevada saluted Macy's achievements during his tenure as president of the National District Attorneys Association.

The bipartisan fund-raiser drew a crowd of about 500 at the Lincoln Plaza Inn, organizers said.

"Bob Macy helped start a movement that will make this a safer place for all Americans," Barr told the audience.

Calling Macy "a true patriot," Barr said Macy "is the kind of guy you want at your shoulder when you go to battle." The former head of the Department of Justice decried what he described as a "subtle change in direction" by the Clinton administration in recent cuts to federal law enforcement budgets.

"This is misdirected. Social programs cannot be a substitute for tough law enforcement," Barr said.

A strong law enforcement assault is needed to find a solution for the crime epidemic, Barr said.

That message was well-received by the group of mostly Oklahoma City attorneys and police officers at the \$100 per plate affair.

Macy, 62, has been district attorney for the past 12 years and has announced he will seek re-election. Funds raised will go into his campaign, said organizer Bill Berry, a former district attorney.

Actor Wilford Brimley read a tribute to Macy from now U.S. Attorney General Janet Reno who lauded Macy not only for his efforts as district attorney's association president, but for local achievements that include the creation of victim witness programs, anti-drug programs and rodeo charities.

Homespun cowboy wisdom pleased Macy, who is as well-known for his western attire and string bow tie as for his prosecution of death penalty cases.

A.C. "Cappy" Eads, district attorney in Bell County, Texas, recounted how Macy "brought a sense ... of more courage and commitment to do what is right" to the prosecutors' organization.

Macy showed other state prosecutors how to turn back a tide of criminals, Eads said.

"He told us the only way to turn a herd is to get in front of it, and that's what he did," Eads said.

Prosecutor Rex Bell of Las Vegas, Nev., said Macy was responsible for the association's strong mission statement calling for "protection of the citizens of the United States from the criminal." BIOG: NAME:

Archive ID: 552651

Ad

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Document: 120 GOP faithful gather at the river;And congressmen pray ...

**120 GOP faithful gather at the river;
And congressmen pray they won't drown**

The Houston Chronicle

February 27, 1993, Saturday, 2 STAR Edition

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Section: A; Pg. 2

Length: 555 words

Byline: MICHAEL WINES; New York Times

Dateline: PRINCETON, N.J.

Body

PRINCETON, N.J. -- William Bennett, the pugnacious philosopher-politician, is preaching his gospel of social conservatism to a rapt group of Republican members of Congress almost as if he were still education secretary and George Bush were still president.

He rails against liberal civil-rights dogma, which he says is ""patronizing" black and Hispanic youths instead of helping them.

He bemoans the ""racism" of handing out inflated grades and scholarships to unqualified minority students solely in the name of affirmative action.

Sermon complete, he departs to thunderous applause from 120 of the 176 House Republicans who have gathered for a retreat.

Minutes later, Rep. Steve Gunderson, a young moderate from Wisconsin, gets his turn at the microphone.

He says quietly, ""We're going to see the biggest increase in spending for education and training that we've seen in decades. "

Lambasting free-spending Democrats is legitimate politics, he says, but Republicans ""need to make sure that that money is well spent. "

Thus, the lawmakers are watching hope mud-wrestle with reality. So far, it is hard to tell which is winning.

The event is called ""Congress of Tomorrow," an annual mix of tent revival and chalkboard lecture staged by the Congressional Institute Inc., a Washington foundation.

The agenda for the meeting, in Plainsboro, N.J., is heavy with conservative luminaries like Bennett; Rep. Newt Gingrich of Georgia, the House Republican whip; and **William P. Barr**, the recent attorney general, gnawing on such meaty Republican topics as ""Welfare: From Dependence to Independence. "

With no Republican president, a smaller Republican presence in the Senate and not even a working minority in the House, lawmakers are being confronted with something they have not faced in 16 years: the prospect of political irrelevance. Republicans gained a handful of House seats in the last election. But with only 176 of the House's 435 members, they remain about 20 seats shy of posing any serious challenge to the Democrats' dominance of that chamber and no longer have a president to strike down policies they dislike.

Coming to terms with that status was an underlying theme of many of Friday's sessions. The Republicans here differed less over ideology and policy than over strategy to retain what influence they have.

More often than not, the choice was between pragmatists, who talked of tough choices, public education and limited cooperation with Democrats, and firebrands, who favor the political equivalent of guerrilla warfare.

Gail Wilensky, the chief expert on health policy in Bush's White House, bluntly told one morning session that only painful lawmaking will solve the crisis in federal health care policy.

""You have two fundamental choices: spending more, which means more taxes, or taking it away from other programs," she said.

Minutes later, Stuart Butler of the Heritage Foundation was giving pointers on how to garrote Democratic rivals over the same no-win issue. Accusing Democrats of trying to ration health care services is a ""devastating" argument, he said.

Most Republicans here do not disagree with Butler's assessment, but some question whether Republicans will advance their cause with Doberman pinscher politics.

Classification

Language: ENGLISH

Subject: POLITICAL PARTIES (91%); CONSERVATISM (90%); LEGISLATIVE BODIES (90%); US REPUBLICAN PARTY (90%); MINORITY GROUPS (89%); PUBLIC POLICY (89%); RACE & ETHNICITY (89%); US DEMOCRATIC PARTY (89%); LIBERALISM (78%); POLITICS (78%); AFRICAN AMERICANS (77%); CAMPAIGNS & ELECTIONS (77%); CIVIL RIGHTS (77%); EDUCATION SYSTEMS & INSTITUTIONS (77%); HEALTH CARE POLICY (77%); RACISM & XENOPHOBIA (77%); STUDENTS &

STUDENT LIFE (77%); TALKS & MEETINGS (77%); AFFIRMATIVE ACTION IN EDUCATION (76%);
HISPANIC AMERICANS (76%); GOVERNMENT ADVISORS & MINISTERS (73%); EDUCATION
DEPARTMENTS (72%); PUBLIC SCHOOLS (72%); US PRESIDENTIAL CANDIDATES 2012 (72%);
AFFIRMATIVE ACTION (71%)

Company: HOUSE REPUBLICAN (90%)

Organization: HOUSE REPUBLICAN (90%)

Industry: EDUCATION SYSTEMS & INSTITUTIONS (77%); HEALTH CARE POLICY (77%); PUBLIC
SCHOOLS (72%)

Person: NEWT GINGRICH (58%); GEORGE W BUSH (57%)

Geographic: NEW JERSEY, USA (79%); UNITED STATES (79%)

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Terms: "william p. barr"

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1993 WLNR 4801958

Houston Chronicle
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January 12, 1993

Section: A

Barr says Texas crime rate is "out of control"

RICHARD STEWART

BEAUMONT

BEAUMONT -- Texas is reaping a criminal whirlwind in the 1990s because in the 1980s the state didn't build enough prisons to keep criminals off the street, William Barr said Monday in his last scheduled speech as U.S. attorney general.

"In the 1980s Texas didn't increase its prison room," he said. "Right now, the crime rate in Texas is out of control."

Barr's strong anti-crime, pro-law enforcement remarks reached appreciative ears. He spoke at the 100 Club of Jefferson County's annual law enforcement officer of the year banquet.

Barr traced the rapid rise of crime -- particularly violent crime -- in the United States back to 1965. "Prior to 1965 we had an extremely low and steady crime rate," he said. "Since 1965, the crime rate has quadrupled."

He said the decline of family values, the decline of public morals and increased use of drugs has caused the crime rate to skyrocket.

"In some urban areas up to 70 percent of the children are illegitimate," he said, adding that many children aren't getting the kind of upbringing they need to stay away from crime.

Some anti-crime programs are beginning to show progress, Barr said. "Just say no" campaigns in schools and drug education programs in schools are decreasing the use of drugs by students, he said.

Tough law enforcement programs, such as federal sentencing guidelines that prohibit early release on parole, are also keeping criminals off the street, he said.

Texas has created a "revolving door justice system," Barr said, in which criminals serve only a few months in prison for every year they are sentenced. As a result, he said, the same criminals commit more crimes.

Barr, 42, plans to rejoin a Washington law firm he left to become attorney general in November 1991.

--- Index References ---

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NewsRoom

PRIVILEGE TO HAVE OPPORTUNITY — DISTINGUISHED
BAR

~~LIKE~~ LIKE TO RECOGNIZE AND GREET
SOME SPECIAL COLLEAGUES OF MINE WHO ARE
HERE.

WHEN I WAS DEP. A.G.
AND THEN DEP A.G..

FIRST, MEET GEORGE TENILLIGER, WAS MY
DEPUTY AT DOJ. AND WAS TRULY OUTSTANDING.
GEORGE, I MEAN IT, YOU WERE SECOND BEST DAY
IN RECENT HISTORY.

→ NOW, PARTNER AT McGUIRE, WOODS

I KNOW HE WILL HAVE DISTINGUISHED CAREER IN
PRIVATE PRACTICE AS HE HAD AT D.O.J.

SECOND, RECOGNIZE CHUCK COOPER. CHUCK IS MY
PARTNER AND HAS SUCCESSFUL LITIGATION PRACTICE AT
SHAW, PITMAN.

BUT CHUCK WAS ^{ALSO} MY PREDECESSOR AS ASS'T A.G. FOR O.L.C.
AND HE TELLS ME THAT I WAS THE SECOND BEST
HEAD OF O.L.C.

REMISS IF I DIDN'T MENTION ED PUTR.

RIGHT HAND MAN WHILE I WAS AT O.L.C.

NOW SUCCESSFULLY PRACTICING AT HANSON, WILLIAMS.

LAST BUT CERTAINLY NOT LEAST

→ AND, RICHARD CULLEN

REAL HONOR TO BE INTRODUCED BY YOU.

~~TOP PRIORITY WAS DEALING WITH VIOLENT CRIME~~

IN VIRGINIA

PARTICULARLY, COMMEND RICHARD FOR HIS EXCEPTIONAL LEADERSHIP,
IN THE FIGHT AGAINST VIOLENT CRIME.

→ WAS MY TOP PRIORITY

HE ~~HAS~~ ~~BEEN~~ ~~A~~ ~~LEADER~~ IN THE VANGUARD,
~~OVER~~

- TRIGGERLOCK / NO. 2 IN NATION
- ANTI-GANG EFFORTS
- WEED + SEED PROGRAM } EXEMPLIFIED

INNOVATIVE PROGRAM TO COMBINE
TOUGH LAW ENF., COMMUNITY-POLICING,
AND EFFECTIVE SOCIAL PROGRAMS IN
A PARTNERSHIP WITH LOCAL COMMUNITIES.

I ALSO WANT TO COMMEND RICHARD FOR
HIS LEADERSHIP IN COMING TO GRIPS WITH
ILLEGAL GUN TRAFFICKING, FROM VIRGINIA.

~~THIS IS A SERIOUS PROBLEM,~~

WE CAN'T ALLOW VIRGINIA TO BE THE
ARMORY FOR CRIMINALS AND GANGS UP AND
DOWN THE ^{EAST} COAST.

I THINK THE COMPROMISE THAT WAS WORKED
OUT TO PLACE^E REASONABLE CONTROLS ON
MULTIPLE GUN SALES IS A USEFUL ONE
~~AND THE PERSONNEL SUPPORT IT?~~
HOPEFUL IT WILL HAVE AN IMPACT.

I THOUGHT THAT WITH THE PENDANCY
 OF THE MULTIPLE GUN SALE PROPOSAL IN
 THE LEGISLATURE, AS WELL AS SEVERAL OTHER
 ANTI-CRIME PROPOSALS
 AND WITH THIS RECENT EXAMPLE OF
 USING OUR TOUGH FEDERAL LAWS TO TAKE DOWN
 A VIOLENT GANG --

IT WOULD BE APPROPRIATE TODAY FOR ME
TO SIGN ...

100
 01 GAS 20

01 GAS 20

01 GAS 20

SHARE MY THOUGHTS WITH YOU ~~THE~~ ^{ABOUT} THE NATURE OF THE VIOLENT CRIME PROBLEM THAT WE ARE FACING AS VIRGINIANS AND AMERICANS AND ^{ABOUT} WHAT CAN BE DONE TO COME TO GRIPS WITH IT.

~~THE~~ ~~CRIME~~
AS A SOCIETY, WE FACE NO GRAVER PROBLEM THAN THAT OF VIOLENCE.

AS AMERICANS, WE TEND TO FOCUS ON THE IMMEDIATE -- ON THE NEWS OF THE DAY.

BUT WHEN YOU STEP BACK AND SURVEY THE LAST FEW DECADES, NO DEVELOPMENT HAS BEEN MORE PROFOUND OR MORE APPALLING THAN THIS SUSTAINED EPIDEMIC OF VIOLENCE, THAT HAS GRIPPED OUR NATION.

PRIOR TO 1960, THE LEVEL OF VIOLENCE WAS RELATIVELY STABLE, AND RELATIVELY LOW.

SINCE 1960 WE HAVE WITNESSED AN EXPLOSION OF VIOLENT CRIME.

5f

IN JUST THE PAST 30 YEARS, VIOLENT CRIME HAS INCREASED 500% -- A FIVEFOLD INCREASE!

THIS UNPRESENTED VIOLENCE HAS EXACTED A TERRIBLE TOLL -- A TOLL IN HUMAN LIVES, HUMAN MISERY, IN UNTOLD ECONOMIC LOSSES, IN DESTROYED NEIGHBORHOODS, COMMUNITIES.

THE PERVASIVENESS OF CRIME IS TAKING FROM US, ~~WE ARE LOSING~~ A GREATER AND GREATER DEGREE OF OUR FREEDOM AND OUR PEACE OF MIND. (DOMESTIC TRANQUILLITY)

WE WORRY THAT OUR CHILDREN ARE MOVING INTO A WORLD WHERE ~~THE~~ ^{THE LIKELIHOOD} ~~THEIR CHANCES~~ THAT THEY ~~OF~~ END UP AS A COLD STATISTIC ARE ~~BEING~~ BECOMING ~~ALL TOO LIKELY~~. ~~THE~~ GREATER AND GREATER.

IMPACT MOST FELT BY THOSE WHO CAN LEAST AFFORD. IN OUR INNER CITIES. MURDER LEADING CAUSE: 84.

PROGRESS

NOW IT MAY COME AS A SURPRISE ^{TO SOME OF YOU} ~~TO SOME OF YOU~~ THAT DURING THE 1980'S WE ACTUALLY MADE SOME REAL HEADWAY AGAINST VIOLENT CRIME.

400%
60-70's

MOST OF THE EXPLOSIVE GROWTH IN VIOLENCE OCCURRED IN THE 1960'S AND 1970'S:

VIOLENT CRIME INCREASED 400% IN THOSE TWO DECADES.

THAT WAS THE HEY-DAY OF THE PERMISSIVE ERA WHEN FEWER CRIMINALS WERE SENT TO PRISON, SENTENCES WERE SHORTER, AND INCARCERATION RATES DROPPED.

IN THE 1980'S WE TOUGHENED UP ~~UP~~, INCARCERATION RATES DOUBLED, AND THE TRAJECTORY FLATTENED OUT CONSIDERABLY.

BUT, TODAY, WE NOW SEE CRIME RATES PICKING UP PACE AGAIN.

CRIME IS BECOMING MORE WANTON AND BRUTAL.

MURDER AND RAPE ARE INCREASING SHARPLY.

GANG VIOLENCE IS SPREADING.

MORE AND MORE VIOLENT CRIME IS BEING COMMITTED BY JUVENILES.

I THINK THERE ARE A NUMBER OF REASONS FOR ~~THE~~ ~~REASONING~~ THE RECENT ESCALATION.

1. THE CRACK EPIDEMIC CLEARLY HAS CLEARLY PLAYED A ROLE.

2. BREAKDOWN OF THE FAMILY --

INCREASINGLY SEEING KIDS BROUGHT UP WITHOUT FATHERS, PARTICULARLY IN OUR CITIES, AND THIS IS CONTRIBUTING TO THE EMERGENCE OF GANGS AND THE JUVENILIZATION OF CRIME.

3. BREAKDOWN OF THE CRIMINAL JUSTICE SYSTEMS AT THE STATE LEVEL. THE STATE SYSTEMS HAVE NOT FOLLOWED THROUGH ON THE TOUGHER POLICIES OF THE 1980'S, AND HAVE RELAPSED TO REVOLVING DOOR SYSTEMS.

WELL, WHAT CAN WE DO ABOUT ^{THIS} INCREASING VIOLENCE?

ARE WE DOOMED TO LIVE IN A SOCIETY WITH EVER-SPIRALLING LEVELS OF VIOLENCE?

WELL, YOU BASICALLY HEAR TWO DIFFERENT APPROACHES BEING OFFERED.

ONE SAYS: WE MUST DEAL WITH CRIME ~~BY~~ WITH A STRONG CRIMINAL JUSTICE SYSTEM, CRIME IS CAUSED BY CRIMINALS, AND WE HAVE TO GET TOUGH WITH CRIMINALS.

THE OTHER SAYS; CRIME IS CAUSED BY SOCIAL ILLS AND WE HAVE TO ATTACK THESE "ROOT CAUSES" WITH WITH MORE SOCIAL PROGRAMS.

(AT THE OUTSET)
LET ME SAY WHERE I COME ~~DOWN~~ DOWN.

I ~~W~~ WOULDN'T SAY THAT A TOUGH LAW ENFORCEMENT APPROACH IS THE WHOLE SOLUTION ANSWER. BUT I WOULD SAY THERE CAN BE NO ANSWER WITHOUT IT.

A STRONG LAW ENFORCEMENT APPROACH IS THE SINE QUA NON FOR DEALING WITH VIOLENT CRIME.

IT MUST BE THE FOUNDATION UPON WHICH ALL ELSE IS DONE.

I DO NOT DISMISS THE NEED FOR EFFECTIVE SOCIAL PROGRAMS THAT ADDRESS THE SO-CALLED ROOT CAUSES OF CRIME. (ALTHOUGH I ^{DO} QUESTION WHETHER MANY OF THE PROGRAMS WE HAVE FOLLOWED ARE EFFECTIVE.)

TO THE EXTENT WE FIND APPROACHES THAT ARE EFFECTIVE, THEN BY ALL MEANS LET'S EMPLOY THEM.

LET'S DO ALL WE CAN TO PREVENT THE YOUTH
OF TODAY FROM BECOMING THE CRIMINALS OF
TOMORROW.

BUT THOSE EFFORTS MUST GO HAND-IN-HAND WITH
TOUGH LAW ENFORCEMENT.

FRANKLY, MY ^{CONCERN} ~~COMPLAINT~~ ABOUT THE ^{MANY OF THEM} "ROOT CAUSES"
ADVOCATES IS THAT THEY FAIL TO APPRECIATE THE
NEED FOR STRONGER LAW ENFORCEMENT.

THEY TEND TO DISMISS RELIANCE ON POLICE, PROSECUTORS,
PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED.

THEY PRESENT THEIR PROGRAMS AS AN ALTERNATIVE
TO STRONG LAW ENFORCEMENT.

WE HAVE ALL HEARD THE REFRAIN: "LET'S NOT
SPEND MORE MONEY ON ~~POLICE, PROSECUTORS, AND~~
PRISONS; LET'S SPEND IT ON SCHOOLS, HOUSING,
AND SO FORTH."

I THINK THOSE WHO PUSH A SOCIAL PROGRAMS
AGENDA AND GIVE SHORT SHRIEF TO THE NEED
FOR STRONGER LAW ENFORCEMENT ARE MISGUIDED.

1. THE FACT IS THAT WE HAVE BEEN PURSUING A ROOT-CAUSES STRATEGY FOR 25 YEARS.

~~FOR 25 YEARS~~

SINCE 1965 ~~FOR 25 YEARS~~ WE HAVE BEEN POURING EVER INCREASING AMOUNTS INTO SOCIAL PROGRAMS.

- SPENDING STANDS AT RECORD LEVELS -- 290 BILLION.
- \$3111 PER PAYING TAXPAYER. MLANS-TESTED

- WHAT HAVE WE GOTTEN FOR THIS INVESTMENT?
- MORE CRIME!

IT SEEMS TO ME ^(THAT) THE EXPERIENCE OVER THE PAST 25 YEARS SHOULD CAUSE US TO QUESTION WHETHER OUR PROGRAMS ARE EFFECTIVE.

WE SHOULD CERTAINLY BE SKEPTICAL OF THE CLAIM THAT, IF WE JUST SPEND A FEW MORE BILLION HERE OR THERE WE WILL TURN THIS AROUND.

2. FURTHER, IT HAS BECOME INCREASINGLY CLEAR THAT EVEN THE BEST-DESIGNED SOCIAL PROGRAMS CANNOT TAKE ROOT IN A PERVERSIVE ATMOSPHERE OF VIOLENCE AND FEAR.

OUR EFFORTS AT SOCIAL REHABILITATION ARE BEING STRANGLERD BY CRIME.

WE BUILD PUBLIC HOUSING TO SEE IT TAKEN OVER AND USED AS STASH HOUSES.

WE BUILD MODEL SCHOOLS TO SEE THEM TAKEN OVER AND RUN BY GANGS.

~~REHABILITATION PROJECTS~~
CADRINI GREEN. E.G.
~~ARMORED CRIBS~~

FRIEND
WAS IN BUSINESS
OF BUILDING
LOW INCOME HOUSING

[AS ATTORNEY GENERAL, I SPENT A LOT OF TIME GOING INTO HOUSING PROJECTS IN INNER CITIES AROUND THE COUNTRY.

I TALKED TO THE MOTHERS. AND, YES, THEY ARE CONCERNED ABOUT ~~EDUCATION~~ THEIR CHILDREN'S EDUCATION, BUT THEIR MOST IMMEDIATE CONCERN IS FOR THEIR CHILDREN'S LIVES.

THEIR MOST IMMEDIATE REQUEST: GET THE DRUG PUSHERS AND GANG MEMBERS OFF THE STREET AND GET THE POLICE ON THE STREET.]

IT IS INCREASINGLY CLEAR THAT SUPPRESSION OF CRIME -- THE CREATION OF A LAW-BIDING, PEACEFUL ENVIRONMENT -- IS AN ABSOLUTE PREREQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

GILPIN COURT
BLACKWELL

PREMISE OF WEED + SEED
→ ① ELIMINATE CRIMINALS
→ ② COMMUNITY POLICY

NO NEW MASSIVE SPENDING PROGRAM

→ ③ PROGRAMS THAT ARE EFFECTIVE
→ ④ PARTNERSHIP.

II. WELL, HOW DO WE GO ABOUT CREATING THAT MORE PEACEFUL ENVIRONMENT?

→ WHAT CAN WE DO ON THE LAW ENFORCEMENT SIDE TO REDUCE VIOLENT CRIME?

→ I THINK WE HAVE TO COME TO GRIPS WITH THE OVER-ARCHING REALITY ABOUT VIOLENT CRIME TODAY.

AND THAT REALITY IS THIS:

~~THE VAST BULK OF THE PREDATORY VIOLENCE~~

THE VAST BULK OF THE PREDATORY VIOLENCE ~~COMMITTED TODAY~~ IS COMMITTED BY A RELATIVELY SMALL NUMBER ~~SEGMENT~~ OF INCORRIGIBLE, CHRONIC OFFENDERS.

→ EACH OF THESE

~~THESE~~ HABITUAL OFFENDERS COMMIT A STAGGERING NUMBER OF CRIMES WHEN THEY ARE OUT ON THE STREETS.

A 1980 STUDY OF 240 CRIMINALS FOUND THAT THIS SMALL GROUP WAS RESPONSIBLE FOR HALF A MILLION CRIMES OVER AN ELEVEN YEAR PERIOD -- AN AVERAGE OF 190 CRIMES A YEAR EACH.

NUMEROUS OTHER STUDIES SHOW THE SAME RESULT.

THE PROFILE OF THESE CHRONIC OFFENDERS IS WELL KNOWN.

THEY START COMMITTING CRIMES AS JUVENILES, AND GO RIGHT ON COMMITTING CRIMES OF ESCALATING VIOLENCE.

THEY PEAK IN THEIR ~~EARLY 20's~~ LATE TEENS OR EARLY 20's, AND START TAPERING OFF SIGNIFICANTLY AFTER AGE 35.

RECIDIVISM IS A VIRTUAL CERTAINTY.

WHenever THESE OFFENDERS ARE LET OUT OF CUSTODY -- ON BAIL, PAROLE, OR PROBATION -- THEY ARE ALMOST SURE TO COMMIT NEW CRIMES.

WE READ THE NEWSPAPERS EVERYDAY; THE VIOLENCE WE SEE IS NOT COMMITTED BY NOVICES. THESE ARE PEOPLE WITH RECORDS, AND INCREASINGLY PEOPLE ON BAIL, PAROLE.

CHILLING FACT 30% MURDERS

6500

IN MY VIEW, IF WE WANT TO REDUCE
VIOLENT CRIME IN OUR LIFETIME ^{OR} ~~AND~~ OUR
CHILDREN'S LIFETIME, ~~THIS~~ ^A POLICY OF INCAPACITAT-
ING CHRONIC OFFENDERS IS THE ONLY POLICY
THAT HAS ANY PROSPECTS FOR SUCCESS.

THE PRIMARY GOAL OF OUR CRIMINAL JUSTICE
SYSTEM MUST BE TO IDENTIFY, TARGET, AND
INCARCERATE THIS HARD CORE GROUP OF CHRONIC
OFFENDERS -- MAKING THEM SERVE LONG SENTENCES
AND HOLDING THEM IN CUSTODY FOR A LENGTH
OF TIME DICTATED BY THE PUBLIC'S SAFETY.

FOR EACH DAY THESE CHRONIC OFFENDERS SPEND
IN PRISON WE KNOW WITH MORAL CERTAINTY
THERE ARE FEWER CRIMES BEING COMMITTED AND
FEWER VICTIMS.

THE CENTRAL PROBLEM WE FACE TODAY --
THE REASON WE ARE MAKING LITTLE HEADWAY
IN REDUCING VIOLENT CRIME -- IS THE
FAILURE OF THE CRIMINAL JUSTICE SYSTEM'S
AT THE STATE LEVEL TO DEAL WITH CHRONIC
OFFENDERS.

STATE CRIMINAL JUSTICE SYSTEMS ARE ONCE
AGAIN THE PROVERBIAL "REVOLVING DOOR".

~~ACROSS THE NATION, HUNDREDS OF THOUSANDS OF REPEAT VIOLENT OFFENDERS ARE BEING QUICKLY CYCLED THROUGH THE SYSTEM AND PREMATURELY RELEASED BACK OUT ONTO THE STREETS.~~

BY-AND-LARGE, THE POLICE AND PROSECUTORS ARE DOING AN EXCELLENT JOB APPREHENDING AND CONVICTING VIOLENT CRIMINALS. BUT THEN THEY ARE LET DOWN BY THE REST OF THE SYSTEM WHICH DEFEATS THEIR EFFORTS BY PREMATURELY RELEASING THEM.

IT IS A CHILLING FACT THAT 30% OF ALL MURDERS (6,500) ARE COMMITTED BY PERSONS ON BAIL, PAROLE, OR PROBATION AT THE TIME OF THE MURDER.

~~A SUBSTANTIAL PROPORTION OF THOSE CONVICTED~~
~~OF VIOLENT CRIME~~

~~EVEN THOUGH~~

RIGHT NOW, AS A NATIONAL AVERAGE, ONLY ABOUT 37% OF SENTENCES ARE ACTUALLY SERVED.

- TEXAS BASKET CASE / FLORIDA

8 YEARS FOR RAPE / LESS THAN 3 SERVED
15 YEARS FOR MURDER / LESS THAN 5 SERVED.

5 OUT OF 8 FELONS RELEASED EARLY ARE REARRESTED WITHIN 3 YEARS.

THE CENTRAL TASK BEFORE US IS TO REBUILD THE STATE CRIMINAL JUSTICE SYSTEMS.

95% OF VIOLENT CRIME FALLS WITHIN STATE JURISDICTION.

THE FEDERAL GOVERNMENT CAN ONLY HAVE A LIMITED IMPACT.

IF WE ARE GOING TO DEAL WITH VIOLENT CRIME, WE MUST DO SO PRINCIPALLY ON THE STATE LEVEL.

REFORM

~~THE~~ REBUILDING ^{THE} STATE CRIMINAL JUSTICE SYSTEM WILL REQUIRE ~~THE~~ FIRST AND FOREMOST LEGAL REFORM.

ALL THE RESOURCES IN THE WORLD WON'T DO MUCH GOOD IF YOU STILL HAVE A SYSTEM THAT LEAKS LIKE A SEIVE.

IN THE 1980'S WE SUBSTANTIALLY REFORMED THE FEDERAL SYSTEM.

~~WE ADOPTED TOUGH PRE-TRIAL DETENTION~~

-- REFORMED THE BAIL LAWS AND ADOPTED TOUGH PRE-TRIAL DETENTION.

-- WE ABOLISHED PAROLE ALTOGETHER; WE NOW HAVE TRUTH-IN-SENTENCING -- IF YOU GET 10 YEARS / YOU SERVE 10 YEARS.

-- WE ADOPTED SENTENCING GUIDELINES TO ENSURE CONSISTENT PUNISHMENT.
(FIRM)

-- WE ADOPTED STRONG MANDATORY MINIMUMS ~~FOR VIOLENT OFFENDERS AND~~ FOR FIREARM OFFENDERS AND SERIOUS DRUG TRAFFICKERS.

BECAUSE OF THESE AND OTHER CHANGES, THE FEDERAL SYSTEM HAS BECOME UNDOUBTEDLY THE Toughest IN THE NATION.

WHILE THE FEDERAL GOVERNMENT HAS LIMITED JURISDICTION, WE HAVE LEANED FORWARD AND TRIED TO HELP STATE + LOCAL LAW ENFORCEMENT.

UNDER PROGRAMS LIKE TRIGGERLOCK, WE HAVE BEEN PROSECUTING FEDERALLY CRIMINAL

- TRIGGERLOCK - 8 YEAR / 19 YR 3X LOSERS
- ANTI-GANG TASK FORCES FBI 2X
- GUNSMOKE

OFFENDERS WHO ONCE WOULD HAVE BEEN HANDLED LOCALLY.

INDEED, THROUGHOUT THE COUNTRY, BECAUSE THE STATE SYSTEMS HAVE BECOME SO DYSFUNCTIONAL, LOCAL POLICE AND PROSECUTORS ARE STARTING TO PUSH CASES INTO THE FEDERAL SYSTEM.

WHERE WE ARE APPLYING FEDERAL LAW, WE ARE STRIKING TERROR INTO CRIMINALS.

~~DALLAS~~

- PHILADELPHIA 600 GANG MEMBERS - 30 GANGS DESTROYED
3 YRS.

BUT THERE IS NO REASON WHY THE FEDERAL SYSTEM SHOULD BE THE ONLY ONE TRULY POWERED.

WE SHOULD HAVE 50 SUCH SYSTEMS.

IN VIRGINIA, THERE ARE PROPOSALS IN THE LEGISLATURE THAT ~~ARE~~ WOULD MOVE IN THE RIGHT DIRECTION.

-- THERE IS A PROPOSAL TO ALLOW THE JOINT TRIAL OF CO-CONSPIRATORS
(GANG TRIAL)

-- THERE IS A PROPOSAL TO PROVIDE THE JURY WITH ~~THE~~ PRIOR RECORD INFORMATION AT THE TIME OF SENTENCING.

WHILE THESE ARE GOOD PROPOSALS, THIS IS A PIECEMEAL APPROACH.

WHAT IS NEEDED IS A MORE COMPREHENSIVE REFORM.

IN THIS REGARD, LAST JULY, AS ATTORNEY GENERAL, I ISSUED A ~~R~~ VIOLENT CRIME REPORT THAT OFFERED A BLUEPRINT FOR REFORMING STATE CRIMINAL JUSTICE SYSTEM.

IT CONTAINED 24 SPECIFIC RECOMMENDATIONS, COVERING SUCH MATTERS AS PRE-TRIAL DETENTION, TRUTH-IN-SENTENCING; PROTECTION OF VICTIMS; AND SO FORTH.

IT WAS THE PRODUCT OF BROAD CONSULTATION WITHIN THE LAW ENFORCEMENT COMMUNITY AND HAS BEEN WIDELY PRAISED BY LAW ENFORCEMENT AND VICTIMS GROUPS.

IN RELEASING THIS BLUEPRINT FOR REFORM, I WAS JOINED BY

- N.D.A.A.
- I.A.C.P.
- N.S.A.
- STATE A.G.'S VIOLENT CRIME COMMITTEE
- NUMBER OF VICTIMS GROUPS.

UNLESS STATES MOVE TOWARD THIS KIND OF
COMPREHENSIVE LEGAL REFORM, THERE IS
NO PROSPECT OF DEALING WITH VIOLENT CRIME.

Resource

BEYOND LEGAL REFORM, WE NEED TO HAVE
SUFFICIENT RESOURCES TO SUPPORT THE
CRIMINAL JUSTICE SYSTEM.

RIGHT NOW, LAW ENFORCEMENT IS BEING
OVERWHELMED.

THERE IS A NEED FOR MORE POLICE, MORE
PROSECUTORS, AND MORE PRISONS.

IN RELATION TO THE NUMBER OF VIOLENT CRIMES,
WE ARE OPERATING WITH POLICE FORCES THAT
ARE ABOUT 25% OF THEIR STRENGTH ~~40~~ YEARS
AGO.

EFFECT-
IVENESS

YES, BUDGETS ARE TIGHT. BUT IN THESE
TIMES WE SHOULD GO BACK TO BASICS --
REMEMBER THAT THE FIRST DUTY OF
GOVERNMENT IS TO PROVIDE FOR THE
PHYSICAL SECURITY OF ITS CITIZENS.

LET ME SAY, THAT AT THE FEDERAL LEVEL DURING THE BUSH ADMINISTRATION, DOJ'S BUDGET WAS INCREASED 70%, ADDING THOUSANDS OF AGENTS + PROSECUTORS AROUND THE COUNTRY; DOUBLED FEDERAL PRISON CAPACITY; TRIPLED ASSISTANCE TO STATE + LOCAL GOVERNMENTS.

WE NEED THIS KIND OF COMMITMENT AT THE STATE LEVEL.

THE MOST PRESSING NEED OF ALL IS FOR MORE PRISON SPACE.

LACK OF PRISON SPACE IS THE SINGLE GREATEST OBSTACLE TO REFORMING THE SYSTEM.

YOU CAN DEPLOY MORE POLICE, MORE PROSECUTORS, MORE JUDGES -- BUT UNLESS THERE IS PRISON CAPACITY -- ALL WE WOULD BE DOING IS ~~SPEEDING UP~~ ACCELERATING THE REVOLVING DOOR.

THERE ARE THOSE WHO SAY WE CANNOT AFFORD TO BUILD MORE PRISONS.

I SAY WE CANNOT AFFORD NOT TO.

IT COSTS A LOT TO INCARCERATE A VIOLENT OFFENDER -- \$20,000/yr. ON THE AVERAGE.

BUT THE COSTS OF LETTING A VIOLENT CRIMINAL BACK OUT ONTO THE STREETS IS MUCH HIGHER.

ONE ATF STUDY ESTIMATES THAT A ~~REPEAT~~ CHRONIC VIOLENT OFFENDERS COST OVER \$350,000 A YEAR WHILE ON THE STREETS.

PRISONS ARE A GOOD INVESTMENT, THEY END UP SAVING MONEY.

LOOK AT THE SHEER COST OF VIOLENT CRIME.

- OVER \$100 B IN ECONOMIC COSTS
- \$5 B JUST FOR TREATING GUNSHOT WOUNDS
- THE COSTS OF PRIVATE SECURITY
- COSTS OF LOST JOBS, LOST OPPORTUNITIES

HERE IN RICHMOND, AND IN EVERY CITY ACROSS THE COUNTRY, WE SEE NEIGHBORHOODS -- ROWS-AND-ROWS OF HOUSES -- WITH BAR ON THE WINDOWS, BAR ON THE DOORS.

WHAT DOES THAT TELL US?

SOCIETY IS GOING TO PAY TO PUT UP THE BARS.

→ THE ONLY QUESTION IS: ARE WE GOING TO PUT THE BARS UP AROUND THE PREDATORS; OR ARE LAW BIDDING CITIZENS GOING TO PAY TO PUT THE BARS UP AROUND THEMSELVES.

[~~THE~~
I'LL TELL YOU THIS, THE COST BENEFIT RATIO OF PRISONS STACKS UP WELL AGAINST THE OTHER THINGS WE SPEND MONEY ON.

- BILLIONS ON HIGHWAY SAFETY
- BILLIONS ON ENVIRONMENTAL
- 2.6 MILLION TO AVOID EACH PREMATURE DEATH

IF WE USE THIS CALCULUS, THEN INVESTMENT IN LAW ENFORCEMENT IS A BARGAIN.]

CRITICISMS

SOME SAY "GETTING TOUGH DOESN'T WORK."
WE PUT PEOPLE IN PRISON IN THE 1980'S
AND CRIME IS STILL GOING UP.

[SAME CAN BE SAID FOR OUR SOCIAL PROGRAMS]

THE FACT IS THAT WE HAVEN'T REALLY TRIED
GETTING TOUGH.

G.K. CHESTERTON ONCE SAID: "CHRISTIANITY
HASN'T BEEN TRIED AND FOUND WANTING; IT
HAS JUST NEVER BEEN TRIED."

I THINK THE SAME CAN BE SAID FOR
STRONG LAW ENFORCEMENT.

IN THE 1980'S WE STARTED TO STRENGTHEN
THE SYSTEM, BUT WE REALLY DID ONLY
HALF THE JOB. BUT EVEN WHAT WE DID
HAD A REAL IMPACT. TRAJECTORY WAS DECREASED.

BUT, OF COURSE, THE CRITICISM MISSES THE
MARK.

THE ISSUE ISN'T WHETHER CRIME IS STILL
GOING UP. THE ISSUE IS: WHERE WOULD
THE CRIME RATE BE IF WE HADN'T
PUT MORE PEOPLE IN PRISON DURING THE 1980'S.

IT WOULD BE MUCH STEEPER.

THERE ARE THOSE WHO SAY THAT OUR SYSTEM IS ALREADY TOO PUNITIVE -- THAT WE HAVE THE HIGHEST INCARCERATION RATE IN THE INDUSTRIALIZED WORLD AND THIS IS SHAMEFUL.

I DISAGREE.

WHAT IS SHAMEFUL IS NOT THE INCARCERATION RATE ; WHAT IS SHAMEFUL IS THE LEVEL OF CRIME.

THE FACT IS THAT WE ARE NOT TOO PUNITIVE.

THE CHANCES OF GOING TO PRISON ^{IF YOU COMMIT A CRIME} IN THIS COUNTRY ARE EXACTLY THE SAME AS IN THE U.K., CANADA, AND OTHER DEMOCRACIES.

WHAT IS DIFFERENT HERE, IS THAT THERE ARE A LOT MORE PEOPLE COMMITTING VIOLENT CRIMES.

IN FACT, WE ARE FAR LESS PUNITIVE
TODAY THAN WE WERE IN THE 1950's.

THERE IS AN INDEX CALLED THE EXPECTED
IMPRISONMENT FOR CRIMES INDEX, WHICH
TAKES INTO ACCOUNT THE LIKELIHOOD OF
GOING TO PRISON AND THE LENGTH OF
PRISON SENTENCE SERVED FOR A CRIME.

IN 1959, THE EXPECTED IMPRISONMENT
INDEX FOR THE AVERAGE CRIME WAS 93 DAYS.

BY 1975, IT HAD DROPPED TO 14 DAYS.

AFTER ALL WE DID IN THE 1980's TO REVERSE
THAT, WE ARE NOW AT ABOUT 20 DAYS.

SO, WE ARE FAR LESS PUNITIVE THAN WE
WERE IN THE 1950's.

IN FINAL ANALYSIS, THE CORE OF ANY EFFORT TO REDUCE VIOLENT CRIME MUST BE TAKING CHRONIC OFFENDERS OFF THE STREETS AND PUTTING THEM FOR LONG SENTENCES IN PRISON.

THERE ARE SOME PEOPLE WHO ARE CONGENITALLY UNABLE TO ACCEPT THIS.

THEY WILL LOOK FOR ^{EVERY} MAGICAL SOLUTION ~~&~~ EXCEPT FOR PUTTING CHRONIC OFFENDERS IN PRISON.

THEY WILL ESPOUSE GUN CONTROL, DRUG TREATMENT, MORE POLICE.

BUT ALL THESE APPROACHES ARE SECONDARY AND, FRANKLY, OF MARGINAL UTILITY UNLESS WE ARE WILLING TO PURSUE A POLICY OF INCAPACITING CHRONIC OFFENDERS.

IF WE TARGET OFFENDER.

- RESOURCES
- REFORM
- HIGH IMPACT OPERATIONS

CORPORATE ETHICS

o SONY'S COMMITMENT

AS MR. IWAKI'S COMMENTS STRESSED, SONY IS COMMITTED to being "the Excellent Company," and ~~an integral part of that~~ is Sony's commitment to the principles of honesty and integrity and to making these principles an integral part of its day-to-day business and management practices.

central to this

~~"Excellence" is~~

You cannot seek "Excellence" just in the end ~~product~~ result -- providing the highest quality product.

You must also seek "Excellence" in the way ~~by~~ which you get to this result -- in the way you do business and deal with people!

~~How can the ends be considered "Excellent" if you cannot be proud of the means?~~

~~That~~

You cannot achieve a worthy end unless you get there by worthy means.

This is why Sony is dedicated to upholding the highest ethical standards in the conduct of its business.

-- more than ever --

As I am going to describe in a moment, Sony is operating in an environment where it is critical for all employees and managers to understand and comply with the standards of conduct which are the foundation of ~~our corporate existence~~.
Sony's corporate existence.

(iii)
Sony expects every employee and manager (i) to conduct all of the company's activities with honesty, integrity, and loyalty; to ~~fulfill~~ fulfill its responsibilities to those who hold a stake in the company and with whom it deals; to comply with all applicable internal policies; and, to abide by all applicable laws.

lawful and (iv)
Today's program is ~~part~~ part of a comprehensive, corporate-wide initiative to ~~increase~~ raise awareness and reinforce Sony's commitment to ethical behavior

This program includes: promulgation of "Pathway to Excellence": A Guide to Ethical Business Conduct"; the establishment of a Business Ethics Committee; implementation of reporting procedures; creation of the position of Ombudsman; and dedication of resources to training and education.

o REPUTATION AS AN ASSET

A good starting point is to remind ourselves of a stark reality:

~~The~~ A company's reputation is, in the final analysis, its most important asset.

People want to do business with a company that has a good reputation for honesty, ~~and high ethics~~.

People do not want to do business with a company that has a ~~bad~~ reputation for dishonesty -- that is perceived as unethical.

A company's reputation is ~~irreplaceable~~ the hardest kind of capital to build up, and once it has been built up it is irreplaceable, and it can easily be lost.

Sony has one of the finest reputations in the world.

It has taken decades of hard work ~~and dedication~~ ^(the dedication and) of tens of thousands of individuals -- individuals striving to make the right choices day in and day out.

All of this can be ripped down in an instant -- decades of work torn down like ~~to~~ that (click) -- by one person doing the wrong thing.

o ETHICS BEGINS WITH LAWFUL CONDUCT

Being ethical means "doing the right thing" when we are confronted by a choice. Sometimes it is easy to know what the right thing is; sometimes it is harder to know.

In many cases, the principle we must follow -- our obligation -- is clearly spelled out in a law.

The dictates of the law are absolute. When the law spells out our obligations we have a duty to follow it.

There are no exceptions; there is no cutting corners. Weighing of the costs, you just follow the law.

The core of ethical behavior is ~~obedience~~ the law. Obeying the law is the starting point of ethical behavior.

E.g. Let's say you that a subordinate discovers a violation of law and reports it to you. You correct condition. But let's say disclosure of the violation would be costly to the company -- a fine or dividend of a percent. There is a statute that requires disclosure. Do you balance? No, you comply.

"Integrity may be about little things as much ~~or more~~ as big ones.

Can't pick and choose what laws we are going to obey, and rationalize violaters as just little ones.

If you cut corners on the little things, you will lack the strength to deal with the bigger things.

E.g.: Copying software in violation of the licensing agreement? ~~Copying~~
Inflating claims on an expense account?

Ethical behavior requires scrupulous adherence to ~~legal~~ legal requirements.

While Ethics begins with the law, it doesn't end there.

~~There~~ There are ethical norms or principles that are not ~~embodied~~ embodied in a legal requirement.

Ethical problems usually appear in the form of a dilemma, - when two principles are in conflict, or when our responsibilities to two or more interested parties are in conflict.

Resolving this kind of dilemma is not always easy. It may require a balancing act. There may not be in some cases an absolutely right answer.

What is important is that ~~we~~ we have the discernment to recognize when these conflicts exist; that we have a clear understanding of company policy; that we communicate with appropriate people in the company so that proper resources and judgment are brought to bear in working out the problem; and that guided by integrity and common sense we exercise the best judgment we can in ~~the~~ choosing the right course of action under the circumstances.

E.g. Honesty is an ethical norm, even if no legal requirement. But are there circumstances where you may not tell the truth? Do you lie to save someone's life? Here, two principles are in conflict. Sometimes we are faced with the lesser of two evils.

Although Ethics ~~doesn't end with~~ goes beyond the law, I am going to focus mostly today on the importance of adhering to the law.

This is core of ethics. And, also, ~~the~~ these days, ethical norms are more and more being cast as legal requirements.

o INCREASING SCRUTINY

~~Most people act lawfully because they affirmatively want to do the right thing.~~

~~But when the choice gets hard, and we are tempted to rationalize, ~~our~~ our instinct for doing the right thing sometimes needs reinforcement - and that comes from appreciating that there are real world costs associated with violating the law.~~

~~As managers, you all recognize that the prospect ~~of~~ of being caught and ~~of~~ of punishment help motivate people to stay on the straight-and-narrow.~~

As managers who are responsible for ensuring that Sony's activities, ~~and~~ ^{legal} comply with the law, it is important you have a healthy understanding of the changing environment in which Sony is operating.

~~One of the key aspects of~~

One of the realities of this environment is that corporate ~~and~~ activities are being subject to an unprecedented degree of scrutiny.

The media has become much more active and intrusive in investigating possible misconduct.

Private groups ~~and individuals~~ are more active than ever in trying to ferret out corporate misconduct. We see consumer groups, competitors.

Of course, ~~the~~ government scrutiny is at an all time high.

- Increased ^{agency} enforcement ^{programs} ~~efforts~~: SEC, EPA, FTC; OSHA, activist state AGs.; I.G.s
- Greater enforcement coordination among enforcement agencies, which leverages resources: task forces, joint inspections

- Compliance

-- Creation of new enforcement tools, including reporting mechanisms, ~~audits~~ requirements for audits, even proposals to require accountants to report violations, added penalties for concealment.

The bottom line is that corporations are operating in a fish bowl.

The ~~chance~~ chances are that any violation of law will eventually be made public.

~~A rule~~

A good rule of thumb is to assume that everything you say, or do, or write will be made public.

A good guide to conduct is this: ~~If you would not~~ If you would be embarrassed (or worse) by something ~~you~~ ~~being~~ appearing on the front page of the NYT or WSJ, then you shouldn't do it.

o THE PRICE OF MISCONDUCT

Another reality in today's environment is the high price ~~paid~~ paid for any misconduct.

growing

vel -- There are personal costs ~~to~~ --
damage to ~~personal~~ reputation (which
~~is~~ can be professionally devastating); individual
civil liability which can be economically
disastrous; the potential for criminal
liability -- which means not only the
stigma but now the increasing likelihood
of prison time and draconian fines.

-- And for a company these days, the
price of misconduct ~~is equal~~ can be
equally disastrous.

-- The damage to reputation & loss of public
good will;

-- Potential criminal liability, with
draconian penalties;

-- Civil liability both to the government
and injured private parties; share-
holder suits;

-- Imposition of other sanctions such
as being debarred from doing
business with the government

PROSECUTION OF CORPORATE MISCONDUCT

o DRAMATIC INCREASES IN PROSECUTIONS

- Dramatic increase in use of criminal prosecution as means of dealing with conduct that a few years ago would have been handled as civil or administrative matters.
- Prosecutions *for corporate misconduct* are sharply increasing both for (i) individual employees and officers, and (ii) corporate entities.
- White collar prosecutions of individuals has gone from ~~less than 5%~~ *about 8%* of federal caseload in the 1970's to ~~almost 30%~~ *over 25%*.
- Prosecution of companies has jumped from a few dozen a year in the early 1980's to over 400 a year today.
1992 - 120 anti-trust
About 40 Fortune 500 companies indicted a year.
- Charges range across the board: antitrust, environment, customs violations, government contracts, simple fraud, etc.

o HIGHER PENALTIES -- PRISON AND FINES

- Since 1984, Congress has been steadily increasing penalties for White Collar offenses -- both prison terms and fine levels, and both as to individuals and corporations.

o INDIVIDUAL LIABILITY

- Misdemeanors have been made felonies, and felonies that had maximum sentences of 1 year have been ratcheted up to 5. 5 years have become 25. We are seeing statutes with 40 years and even one with a "life."
- About 75% of white collar offenders now convicted are sentenced to actual jail time.
- This will probably go up because the Sentencing Commission has set down guidelines for individual offenders which are binding on judges.
- Fine levels for individuals have also escalated. The typical fine used to be \$10,000. Now it is \$250,000 or more.

- This new Administration has been very vocal about even being more aggressive in prosecuting white collar wrongdoing. And they say they will insist on maximum punishments, including long sentences.

o CORPORATE LIABILITY

- Congress has also been increasing fines that can be imposed on companies.

Fines used to be \$10,000 range. Starting in 1984, Congress started increasing fine levels. Fines are now \$500,000, \$1 million, even \$10 million.

- The old rule in the 18th and 19th century was that corporations could not comit crimes, only individuals could. So prosecutions were directed only at guilty individuals, not corporations.
- In 1909 the Supreme Court ruled that corporations could be criminally liable for the business-related misconduct of their employees. So, if an employee violates the law, the corporation can be prosecuted for the crime, even if the employee's actions contravened company policy.
- As a practical matter, until the past 8 years or so, it was uncommon for prosecutors to go after the corporation. But now, with the high fine levels, indicting the corporation along with the individual wrongdoer, is the usual course.
- Now, increasingly, we are seeing multiple million dollar fines against corporations based on misconduct of employees.

- Just some examples from 1992:

UNYSIS... \$190 m.
EXXON \$250 m. (1.125B)
ROCKWELL \$18.5 m. (RCRA)
CHEVRON \$6.5 m. (CWA)
DEXTER \$4 m. (CWA)
BRISTOL-MYERS 3.5 m. (CWA)
G.E.

- States are following suit -- passing tougher white collar laws and handing down stronger ~~then~~ sentences.

THE NEW "STRICT LIABILITY": SNARES FOR THE UNWARY

-- There is something critical that you must understand about this ^{increasingly} severe enforcement environment ~~the~~:

The Law is changing. In the old days, it was ~~relatively~~ relatively easy for a well-intentioned person to avoid breaking the law: (1) the standards were ~~relat~~ clear; and (2) a person had to intentionally violate the law to be guilty of a crime.

-- Today, it is quite possible for an individual to become ensnared in the criminal law without even knowing it.

-- In many areas, the ^{legal} standards are vague, so it is unclear when conduct crosses the line.

-- Most importantly, in many areas no bad "intent" is necessary to be found guilty. (in some areas)

i -- Congress now passes criminal laws which punish "negligent" actions. (i.e. environmental law)

ii -- in some areas, Congress passes laws which establish "strict liability".

It doesn't matter what your state of mind is; if the violation occurs, you're guilty.

iii -- Even in many areas where the statute requires a knowing violation, the intent requirement has been watered down. (Sometimes "should have known" is enough or sometimes general awareness that actions could be a problem are enough.)

- Moreover, ~~there has been a proliferation~~ in the old days, just had to know a few rules to obey the law. Today, proliferation of laws. But, more importantly, proliferation of rules and regulations that are enforced by criminal sanctions.

-- Literally, stacks of guidelines and rules which, if you violate, could be treated as criminal violation.

RESPONSIBILITY FOR ACTS OF OTHERS

-- Probably the scariest new developments in the law ~~are~~ ^{personally} are ~~the ones~~ the theories by which individual corporate superiors can be found criminally liable for the misconduct of their subordinates even if they played no ~~role~~ role in the

Wrongdoing.

- A supervisor can be liable if he or she condoned the misconduct or was "willfully ignorant" of the misconduct

ETHICAL OBLIGATIONS

o CORPORATE EXPECTATIONS

- The central message is that Sony expects all its employees to adhere to the highest ethical standards and that means, first and foremost, ~~compliance~~ to comply with all applicable laws. to employees
- No matter how great the pressures are, meeting business goals never justifies violating the law.
- There is never an excuse for breaking the law.
- Beyond obeying the law, Sony expects all employees to ~~observe~~ ~~act with honesty and integrity~~ ~~and ethically in its dealings~~ ~~with~~ ~~those~~ ~~to~~ ~~whom~~ ~~it~~ ~~deals~~. to follow corporate policies and to

o KNOWLEDGE OF OBLIGATIONS

The first step is to know what your obligations are.

It is your duty to learn the company's policies ^{and} standards of conduct and, above all, the legal requirement applicable to your area of responsibility.

Careful review of "Pathway to Excellence" is starting point. But have an obligation to learn in greater depth about requirements specifically applicable to your duties!

As managers, you have additional ~~obligations~~ ^{responsibility}. You must take steps to ensure your subordinates know their obligations and you must take steps, insofar as you reasonably can, to ensure that your subordinates are complying with their obligations.

CLEAR LINES VERSUS GRAY ZONES



Department of Justice

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE ATTORNEY GENERAL'S SUMMIT ON CORRECTIONS:
"EXPANDING CAPACITY FOR SERIOUS OFFENDERS"

RITZ CARLTON HOTEL
MCLEAN, VIRGINIA

APRIL 27, 1992

Good morning and welcome.

Thank you all for taking time out from your busy schedules to participate in this summit.

I know we at the Department of Justice are going to benefit greatly from this opportunity to exchange ideas with this distinguished and select group.

I hope that each of you will find these next two days rewarding as well.

Last year, the attorney general held a summit on violent crime.

It was a wide-ranging conference, touching on a broad spectrum of issues -- all related to combatting violent crime.

That conference was very productive.

I know it stimulated ideas and actions in a number of communities.

This year, I thought it would be useful to focus the summit on a particular -- but critical -- aspect of the violent crime problem.

The theme of this summit is: "Expanding Capacity For Serious Offenders."

The focus of this summit is the serious violent offender -- the chronic predator -- and the challenge that we face in ensuring that there will be sufficient capacity in our jails and prisons to handle these dangerous offenders effectively.

I.

Let me say at the outset, that no one -- least of all those of us in law enforcement -- is under the illusion that we can solve the problem of crime in America simply by locking people up.

We all recognize that to make long term reductions in crime we need to take steps to rebuild our communities and those institutions -- the family, schools, religious institutions and community groups -- that instill values in our youth.

But these institutions, and the social programs that are designed to assist them, cannot succeed in an atmosphere of crime and violence.

It is increasingly clear that tough law enforcement measures to make our communities safer are an absolute prerequisite for social programs to be successful.

Indeed, the problem today is that many of our efforts at revitalizing our urban communities are being strangled by crime.

Its hard to raise healthy families in housing projects overrun by drug traffickers.

Its hard for children to learn in schools dominated by violent gangs.

A primary task for law enforcement is to create the atmosphere in which social rehabilitation is possible.

This requires incapacitating the chronic violent offenders who prey upon society and who are responsible for so much of the violent crime that plagues our cities.

Now, not everyone who commits a crime -- even a violent crime -- automatically requires lengthy incarceration.

Some of the people who commit violent crimes are not habitual criminals.

Sometimes a kid gets into a brush or two with the law (an isolated theft, an assault) and then straightens out.

Sometimes, otherwise law-abiding adults act suddenly and explosively, maybe in the heat of passion, and commit a violent crime -- even a serious violent crime.

While they may be blameworthy, sometimes such offenders may not pose an on-going threat to society at large.

But we know there is another kind of criminal -- the chronic violent predator.

Study-after-study show that there is a small segment of our population who are habitual violent offenders.

Each of these career criminals commits a staggering number of crimes when they are out on the streets -- scores, indeed hundreds, of crimes per year.

Just by way of example, one study of 240 criminals found that they were responsible for half a million crimes over an eleven year period. Other studies show similar results.

This small group of chronic offenders is responsible for a disproportionate part of the predatory violence we see around us

-- the robberies, the burglaries, the rapes, and much of the murder.

You all know the profile.

These offenders typically start committing crimes when they are juveniles and keep on committing crimes as adults.

By now it is clear that they are largely incorrigible.

Recidivism is almost a certainty.

They commit new crimes when they are on bail, on probation, or on parole.

The evidence suggests that, by the third arrest or so, the repeat offender has embarked on a career of crime that will usually prove to be irreversible.

It is not until these chronic offenders reach their late 30's that we see any appreciable drop in their recidivism rates.

With this career criminal group, one thing is clear: The only time we know they are not committing crimes is when they are locked up.

Incarceration is the only effective way to prevent these predators from committing more crimes, and in my view, is the only acceptable response to protect society from such clear danger.

We can debate whether prison can rehabilitate an offender.

We can debate whether prison can deter an offender.

But it is beyond debate that prison incapacitates the chronic violent offender.

The more time these serious violent offenders are held in custody -- whether in prison or in jail -- the fewer violent crimes and victims there will be.

The more these serious violent offenders are prematurely released back onto the streets, the more violent crime and victims there will be.

What does this mean for our correctional system?

It means that the challenge we face is to identify and incapacitate these chronic violent offenders.

Now, I believe that for the most part we have identified them.

Most of these chronic offenders have been arrested numerous times.

Many have been convicted repeatedly.

Unfortunately, all too many are still on the streets because we have not been successful enough in incarcerating them for sufficient periods of time.

And, unfortunately, the reason, all too often, has been lack of adequate prison space.

We all know that in many jurisdictions many violent offenders are not being sentenced to prison because of the lack of prison space.

We know that in many jurisdictions violent offenders sentenced to prison are being paroled or otherwise released as early as possible because of space shortages.

We know that in many jurisdictions violent offenders cannot be detained prior to trial because jails are backed up with sentenced prisoners for whom there is no room in prison.

Today, we have 4.2 million people under some form of correctional control.

Almost 1.3 million are in jail or prison. The remaining roughly 3 million are in some form of non-custodial control or intermediate sanction.

Our objective as correctional officials must be to deal effectively with the full range of offenders.

This means ensuring that we are not using up scarce prison space for those who can more appropriately be dealt with in some other setting -- (and I will have more to say about the role of intermediate sanctions in a moment.)

But it also means that to protect society we must incapacitate for extended periods those chronic offenders who will victimize society whenever they are on the streets.

Our decisions as to these violent predators must be based on a realistic assessment of their danger to society.

We simply cannot let our decisions as to the punishment imposed on these individuals to be dictated by a lack of prison capacity.

All too often today, decisions on incarceration of violent offenders are being made on precisely that basis -- with devastating results for public safety.

The challenge before us in the 1990's, is to ensure that we have sufficient capacity so that when we catch a chronic violent offender we have the ability to incarcerate that individual for a length of time dictated by the public's safety -- and not be compelled to release that individual prematurely simply because there is no room at the inn.

II.

As we move into the 1990's how do we address this situation?

In this time of scarce resources and tight budgets, how will we ensure that we have sufficient prison capacity to deal effectively with dangerous violent offenders?

It seems to me that we have three major tasks before us.

First, we must ensure that we are allocating our existing resources as effectively and smartly as we can.

Second, we should do everything we can to operate our facilities and programs as efficiently as possible, cutting costs without compromising quality.

And third, we must look for ways to expand our capacity as economically as possible.

Let me briefly review each of these areas and identify what I think are some of the key issues that we will be examining over the next two days.

III.

First, as I said, we must explore ways to allocate our existing resources as efficiently and smartly as we can.

Each prison bed is a valuable resource.

It costs an average of \$21,000 a year to operate a prison bedspace.

A.

It is important that -- to the extent possible -- we use these scarce resources for dangerous or chronic offenders and

that we not fritter them away on non-serious offenders who do not pose a risk to the community.

That is why developing effective non-custodial control mechanisms as well as intermediate sanctions is so important.

If we can develop ways to effectively supervise and punish non-serious offenders without tying up prison space, then we will be better able to devote our valuable prison resources to dangerous or chronic offenders.

So it is extremely important that we continue to explore ways of managing less serious offenders.

For this reason, 18 months ago the Department of Justice hosted a national conference devoted entirely to the issue of intermediate sanctions.

And, as you can see from our agenda, we hope to devote substantial attention to intermediate sanctions at this summit.

Also, as I know many of you are aware, various department components are heavily involved in promoting alternative sanctions.

The National Institute of Corrections, the National Institute of Justice, and the Bureau of Justice Assistance all have a variety of programs underway that seek to enhance our capacity to manage less serious offenders.

I am looking forward at this summit to the exchange of ideas on alternative sanctions and methods of supervision.

Let me sound a note of caution.

As we consider alternative sanctions as a means of better allocating our existing resources, I think it is important that we not allow these approaches to be sold as something they are not.

With all the budget pressures that exist today, some public officials may be tempted to see alternative sanctions as a cheap and easy solution for the prison capacity crunch.

The lure of non-custodial options could become an excuse for not making needed investment in traditional correctional facilities and their operation.

So it is important that we keep alternatives in perspective.

Alternatives to traditional prison incarceration are appropriate for non-serious offenders.

They are not appropriate for chronic or dangerous violent offenders.

Moreover, as you know, many of these non-custodial alternatives may not be appreciably cheaper than custodial supervision in correctional facilities.

If carried out properly, with a view to public safety, supervision outside a facility may be just as expensive as supervision inside a lower-security facility.

And finally, I do not think we can hold out the prospect that we can liberate very much existing prison space by diverting non-serious offenders into alternative sanctions.

The fact is that we are probably not wasting much of our existing bedspace on people who should not be there.

93% Of all state prisoners and 88% of all federal prisoners are either recidivists or are currently serving a prison sentence for a violent offense.

So the notion that our prisons are full of people who should not be there is simply false. To the extent we can recapture any space from the current inmate population, I think it will be at the margin.

In that regard, while violent offenders should get priority, we still need some bedspace for other categories of offenders.

We still have to have the capacity to deter and punish drug traffickers.

Curtailling the drug trade is critical to freeing our communities from the grip of violence.

If we effectively de-criminalize drug trafficking by eliminating prison time as a sanction, we can make no progress in the drug war.

We also must retain some ability to incarcerate serious white collar criminals.

While perhaps not as physically threatening to the community, their crimes can still have a devastating impact -- as we recently saw in the s&l debacle.

White collar crimes may be those that are most deterrable by the prospect of prison time.

Nevertheless, with all that said, it is clear that we must allocate existing resources wisely to ensure that we are not wasting prison space on those who do not belong there.

Any effort to maximize prison capacity for violent offenders, must include careful consideration of intermediate sanctions and non-custodial supervision.

B.

As we look at the best allocation of existing resources, another major issue we should discuss is the space being taken up by criminal aliens.

Twenty-five percent of the inmates in federal prisons are non-U.S. citizens, as are a substantial number of those in state prisons and local jails.

The problem is particularly serious in some states, such as California, Texas, Florida, New York and Illinois.

We could free up thousands of prison beds if we got rid of those criminals who are not citizens and who have no right to be in the country.

I believe that we should pursue at least a four-prong attack on the problem of illegal aliens in our prisons.

First, the Department of Justice has recently stepped up enforcement efforts to stop illegal aliens at the border and to apprehend and rapidly deport those who have made it in.

This effort includes additional border patrol agents, additional criminal investigators, additional funding for equipment such as lighting, sensors and physical barriers, and a criminal alien tracking center to help identify and deport criminal aliens more rapidly.

We are also exploring legislative changes to make it possible to exclude or more quickly deport illegal aliens in certain circumstances.

Second, we are working on ways to speed up the processing of illegal aliens currently in prison so that they can be deported immediately upon completion of their sentence without having to be released into the community.

As you may know, we have taken steps to expand our in-facility processing, known as the Institutionalized Hearing Program, so that aliens are ready for deportation by the time their sentences are completed.

I will act vigorously to further expand that program.

Third, we should explore additional ways, without sacrificing public safety, to speed the removal of illegal aliens from our prisons.

We need to balance the need to punish illegal aliens who commit crimes with the reality of limited prison capacity and the need to use our scarce prison space for violent offenders.

In this regard, we should explore the possibility of making modest adjustments in sentences for aliens convicted of relatively less serious offenses, who have already served significant periods, and who are prepared to stipulate to immediate deportation.

This would free up the spaces they are currently occupying for more violent, chronic offenders.

Of course, any such system could only work if Congress passes significant penalties for illegal re-entry by any individual released.

Fourth, we should explore ways to make greater use of prisoner transfer -- sending alien prisoners to their home countries for completion of their sentences.

Today we are limited to situations where the prisoner consents to transfer.

One possibility would be to consider modest adjustments to sentences for prisoners who consent to such transfers.

This might induce a number of additional alien prisoners to consent to voluntary transfers.

I am also exploring the legal and policy issues raised by the involuntary transfer of illegal alien prisoners.

If a system of involuntary transfers could be successfully implemented, it could hold forth substantial promise for reducing the number of illegal aliens in our prison.

Again, any proposals in this area would require stiff penalties for illegal reentry.

IV.

Let me turn to the second major task before us -- making our facilities more operationally efficient.

We all know that the major cost of prison space is not its construction but its operation.

Construction represents only 3 to 5 percent of the real cost of prison over its lifetime.

As I said, average cost of operating each prison bed is \$21,000 a year.

It seems to me that we must do all we can to reduce these operational costs of our correctional institutions without sacrificing their security or their humaneness.

A.

In this regard, proper classification of prisoners is an area that deserves special attention.

The cost of incarcerating a prisoner can vary substantially depending on the security-level of the facility to which he is assigned. For example, the cost of maintaining a prisoner in a higher security facility may be 3 times the cost of maintaining that same prisoner in a correctional camp.

An important way to promote operational efficiency is for a correctional system to accurately classify and stratify its prisoners based on objective assessments of each prisoners risk of escape, risk of violence and other appropriate manageability and security factors.

Generally speaking, a prisoner should be assigned to the lowest level facility commensurate with this risk assessment.

Great operational cost savings can accrue to a correctional systems that assigns its inmates based on a sound classification scheme.

And so over the next two days we will be sharing experience and ideas on inmate classification.

B.

Another particularly acute operational problem is health care.

Some states now spend over \$7 dollars per inmate per year on health care.

This amounts to the taxpayers spending \$2,555 per year on health care for each prisoner. This is more than the average law-abiding citizen spends for health care for each family member.

There must be some common-sense ways to reduce these costs without compromising the essential human needs of inmates, and I know we will be discussing various options at this summit.

Moreover, with your help, the national institution of corrections and other justice department components can serve an ongoing role as a clearinghouse for information on ways to reduce these and other operational costs.

This function also can be served very well by some of the professional organizations that are represented here today.

The American Correctional Association, the American Jail Association, the Association of State Correctional Administrators, the National Association Of Blacks In Criminal Justice, and the American Probation and Parole Association and others have the expertise and ability in their ranks to help in this process as well.

C.

In addition to looking at ways to cut operational expenses, another way to reduce costs is to generate offsetting revenues, both by user fees and prison industries.

I believe user fees are an important tool.

They serve as a means to provide additional resources in a time of tight budget constraints.

They are also important as a matter of simple fairness. Taxpayers provide for prisoners' room, board, and medical care.

Law abiding citizens must pay for these necessities themselves.

It is only fair that prisoners pay a portion of these costs, whenever possible.

In addition, user fees may also be appropriate to help pay for inmate drug testing programs.

In this year's federal budget, we are including a proposal to fine prisoners for the cost of their first year of incarceration.

We anticipate recovering from approximately 9% of the inmates.

Prison work and prison industries are also important tools which we will be discussing over the next two days.

Requiring inmates to work is consistent with the punitive function of imprisonment.

More positively, it also teaches discipline and prepares inmates for reintegration into the community.

There are also indications that prison work may assist in reducing crime by lowering recidivism rates.

And, prison work can be an extremely important means of reducing costs and generating offsetting revenues.

Inmates can maintain the facility itself, and can perform such tasks as sorting trash for recycling and doing nonhazardous environmental clean up in parks, and other areas.

Inmates working in prison industries can produce a variety of products for use in the prison to save money, or for sale to help generate revenues.

Our challenge is to find suitable projects for inmates to help teach useful skills and a sense of responsibility, and to generate revenues to offset the costs of incarceration, without reducing the opportunities for employment for law abiding workers.

D.

Another factor that affects operational expenses is litigation.

I realize that the ability of many states to manage their own prisons and jails efficiently has been hampered by the involvement of courts in their day-to-day operations.

The 1970's and 1980's saw a flood of litigation, particularly in the federal courts, by prisoners challenging the conditions in state and local facilities as a violation of the U.S. Constitution.

During this period, many lower courts mistakenly applied a vague "totality of the circumstances" or "overall conditions" standard to find that states were in violation of the Constitution.

Many courts during this period went far beyond what the Constitution requires, or even permits, in remedying purported

constitutional violations -- specifying the particulars of prisoners' diets, food temperature, exercise, visitation rights and health care.

Some courts even went so far as to require court approval of the design plans for new prisons.

Worse still, some courts imposed caps on the population of state and local facilities, forcing cities and states to turn loose violent offenders.

In my view, it is not the role of judges or court-appointed special masters to run prisons.

Rather, the appropriate role of the federal courts is to adjudicate specific disputes concerning alleged constitutional violations, and otherwise to leave the management of prisons and jails to local correctional professionals.

That means several things.

First, federal courts should interfere only to remedy specific constitutional violations.

They should not insist upon compliance with a set of standards or any other level of comfort not required by the Constitution.

Second, once a state has remedied the specific constitutional violation identified by the court, the court's involvement should end.

Once a violation has been cured, control and management of the prison should be returned to the appropriate state officials.

Third, the Department of Justice will not use the federal courts to impose burdens that go beyond what is required by the constitution.

Finally, it is wrong for courts to impose an arbitrary population cap based on the now-rejected legal theory that the "totality of the circumstances" in the prison require a cap.

The proper approach is for the court to order that the specific constitutional violations identified be remedied, not to require the state to release dangerous criminals back onto the streets.

I have already begun to implement these new policies in litigation in which the United States is a party.

In Texas, for example, I announced that I support Attorney General Dan Morales' motion to terminate the 20-year-old Ruiz litigation without any permanent court-imposed limitations on the operation of Texas prisons.

I reiterate today my belief that the Ruiz litigation should be terminated.

I have also been working closely with Governor Engler and Attorney General Kelley in Michigan, as well as with Ken McGinnis, the Director of Corrections in Michigan, to bring to a close federal-court litigation concerning several of Michigan's largest prisons.

In appropriate cases, I am also willing to lend a hand to states and localities tied up in litigation in which the Department is neither a party nor an intervenor.

Just last week, the Justice Department filed papers as Amicus Curiae urging the federal district court in Philadelphia to lift a cap on the population of Philadelphia's jails that is wreaking havoc on public safety.

Let me add, however, two brief observations.

First, some people have said that if we remove existing population caps and other extra-constitutional limitations on state prisons, the conditions in some prisons will lapse into the dark ages.

I am confident that will not happen.

By and large, the people who work in corrections today are top-notch professionals, and they have no interest in seeing conditions in prisons deteriorate.

In choosing whether to get involved in lifting existing court-imposed conditions, I have placed great reliance on the professionalism of the people involved.

Of course, if constitutional violations recur, inmates are free to vindicate their rights in court, and in appropriate case, the United States remains ready, willing, and able to vindicate prisoners rights.

Second, frankly, one of the positive effects of population caps has been to force state legislatures to make appropriate investment in prisons.

While that salutary effect does not justify the unwarranted intrusion of a court-imposed population cap, nor should the

lifting of these caps be seen as a substitute for investing more in corrections.

We cannot allow the lifting of caps to become an excuse for public officials to fail to invest in needed new capacity.

Any state that thinks that it is sufficient simply to pack more criminals into existing space is likely to end up right back in the middle of burdensome litigation.

V.

The third major area we will be examining at this summit is how we can expand our prison capacity most efficiently.

The average cost of constructing a new prison bed is \$53,000.

We should look for ways to reduce the cost of construction.

Innovative design can play a critical role.

Not only can smart plans cut the direct costs of construction, they can also -- through staff-efficient designs -- substantially reduce operational costs over the life of the facility.

In my view, the national institute of corrections and other justice assistance components, are uniquely positioned to expand their existing clearinghouse functions regarding prison construction, and I have asked them to do so.

We will also be discussing enhancing the process for making closed military bases and other surplus federal properties available to states and localities for use as prisons.

This is an idea that the Department has supported and pursued itself for a portion of the Bureau of Prisons' expansion program.

Moreover, the military can provide more than just property. Recent reductions in military personnel have freed up thousands of highly professional, highly trained men and women who can be recruited into the field of corrections.

I strongly encourage state corrections officials to contact local military offices to inquire into the availability of recently-discharged personnel.

Programs like the defense outplacement referral service for civilian DOD employees and the centralized applicant referral

service for uniformed personnel, can be used to good effect, as can increased use of targeted recruiting at military bases.

I pledge the assistance of the Justice Department in following through on ideas that may be developed during this summit for further uses for closed military bases or former military personnel.

Finally, we will also discuss a variety of potential approaches to the concept of regional prisons managed by consortia of states or even private entities, and the potential costs savings that may be associated with those approaches.

VI.

So it clear that our agenda over the next two days is a broad one.

But even as we spend our time looking at better allocation of existing resources, opportunities for more efficient operations, and approaches for cost-effective expansion -- it seems to me that we have one overarching and critical challenge in the years ahead.

We must remind our fellow citizens and our leaders of the importance of investing adequate resources in correctional systems.

Some people say that we cannot afford to invest more in corrections, I say we cannot afford not to invest more in corrections.

While some focus on the cost of building and maintaining prison space, I think it is time we focused on the costs of failing to provide adequate prison space.

Simply put, prisons are a sound investment.

The premature release of violent offenders costs society far more than the expense of building and operating adequate prison space.

Although incarceration is not cheap, the cost to society of not incarcerating dangerous criminals is far greater.

A study published in 1988 by Mark Cohen, formerly on the staff of the U.S. Sentencing Commission, estimated the annual aggregate cost of crime to victims -- including direct losses, pain and suffering and risk of death -- at \$92.6 Billion in 1985 dollars.

And behind these dollars and cents is real-life suffering.

Let me give you one recent example of the price we pay for not keeping a dangerous criminal in prison.

Just this month, in one state a "model prisoner" was paroled after he served 10 years on a 30 year sentence for two aggravated sexual assaults and robbery.

Within 5 months of his release into an intensively supervised parole program, this parolee was arrested and charged with the brutal killings of 5 women and the aggravated assault and attempted murder of two other women.

This is perhaps an extreme example; lets hope so.

But we simply cannot close our eyes to the extremely high recidivism rates among probationers and parolees.

We cannot ignore the fact that at least 30% of murders, 25% of rapes and nearly 40% of robberies are committed by persons on bail, probation or parole.

The costs of keeping violent predators in custody is far less than the terrible toll they exact on the streets.

And let's not forget the high costs that premature release of violent offenders imposes on the criminal justice process itself.

Much of the police and judicial resources we spend in catching, investigating, and trying offenders are frittered away as the offenders are prematurely let go --simply to be recycled through the system yet again.

And there are other costs we sometimes don't think about.

If we don't pay to put the bars up around predators, then the victims pay to put the bars up around themselves.

I have visited many inner-city neighborhoods around the country in recent weeks as part of our Weed and Seed program.

I've seen row-upon-row of houses surrounded by bars -- bars on the windows'; bars around the porches; bars over the doors.

The amount of money we as a society spend on these and other security measures -- essentially making ourselves prisoners -- is staggering.

And then there are the incalculable, yet far larger costs to society of crime, such as lost sales, when people are afraid to go out to do their shopping; lost jobs, when businesses move out

of high-crime areas; lost opportunities, when schools become the playground of gangs and drug dealers, rather than places where inner-city kids can learn their way out of poverty; and lost tax revenues, when sales, businesses and jobs evaporate.

And so, when we stop to think about it, it becomes clear that investing in adequate prison space is not only the morally right thing to do, it is also the economically right thing to do.

And yet, despite the enormous need for additional prison space, spending on corrections remains a very small percentage of state and local budgets.

In fiscal year 1990, only 2.5% of the spending by state and local governments was for corrections (about \$24.7 Billion).

In innumerable other areas, we as a society have recognized the need to invest substantial resources in order to avoid the risk of harm.

-- For example, we invest tens of billions of dollars to reduce the loss of life in car crashes, including investment in highway barriers and safety devices.

-- Or we spend tens of billions a year to regulate air quality and billions to regulate hazardous waste disposal, in order to avoid the harm caused by exposure to pollutants and toxins.

-- We spend billions on asbestos removal alone.

The public appears to accept the need for these substantial expenditures, even though some of them guard against relatively speculative or remote harms.

We are willing as a society to spend millions just to avert one premature death.

For example, each year statewide periodic motor vehicle inspection programs cost \$12.6 Million per each life saved.

Various academic surveys of people's willingness to pay to avoid risks of death indicate that public spending of up to \$2.6 Million to avert one death would be justified.

If we applied the same logic -- and cost/benefit analysis -- used in our other public health and safety programs to corrections, we would be investing much greater amounts in corrections.

As I pointed out earlier, at least 6,500 homicides are committed each year by persons on bail, probation or parole.

Using the \$2.6 Million per life saved figure, would mean, if we used the logic of other programs, spending \$17 billion to avert these homicides. This would almost double what we are spending now on corrections, and this does not take into account all the other non-lethal crimes to be averted -- the burglaries, rapes, assaults and robberies.

Obviously, I am not suggesting that we double our corrections budgets.

But I am saying that the notion that we cannot afford to spend more on corrections is flatly wrong.

VII.

In closing, let me say what I said at the outset. Law enforcement cannot solve the problem of violent crime alone.

Rather, the long term solution to the problem of crime in America is a coordinated approach designed to strengthen social institutions and allow law abiding people to reclaim their communities.

But the foundation to the success of any such approach must be removing the chronic violent offender from the streets, so that we have an atmosphere in which social rehabilitation is possible.

The challenge to those of us in the corrections community is to provide the necessary prison capacity to incapacitate these violent predators.

Without this capacity, real progress in reducing crime simply is not possible.

Without this capacity, social rehabilitation cannot occur.

And, without this capacity, it is the law abiding citizens, rather than the criminals, who will be living behind bars.

This summit can play an important role in meeting this challenge.

We are all in this together.

We all face daunting tasks with scarce resources.

But I think the evidence is clear that the investment needed to expand prison capacity is one that we, as a society, cannot afford not to make.

In the United States Court of Appeals
for the District of Columbia Circuit

Presentation of the Portrait

of the

HONORABLE MALCOLM R. WILKEY

Served the U.S. Court of Appeals from 1970—1985

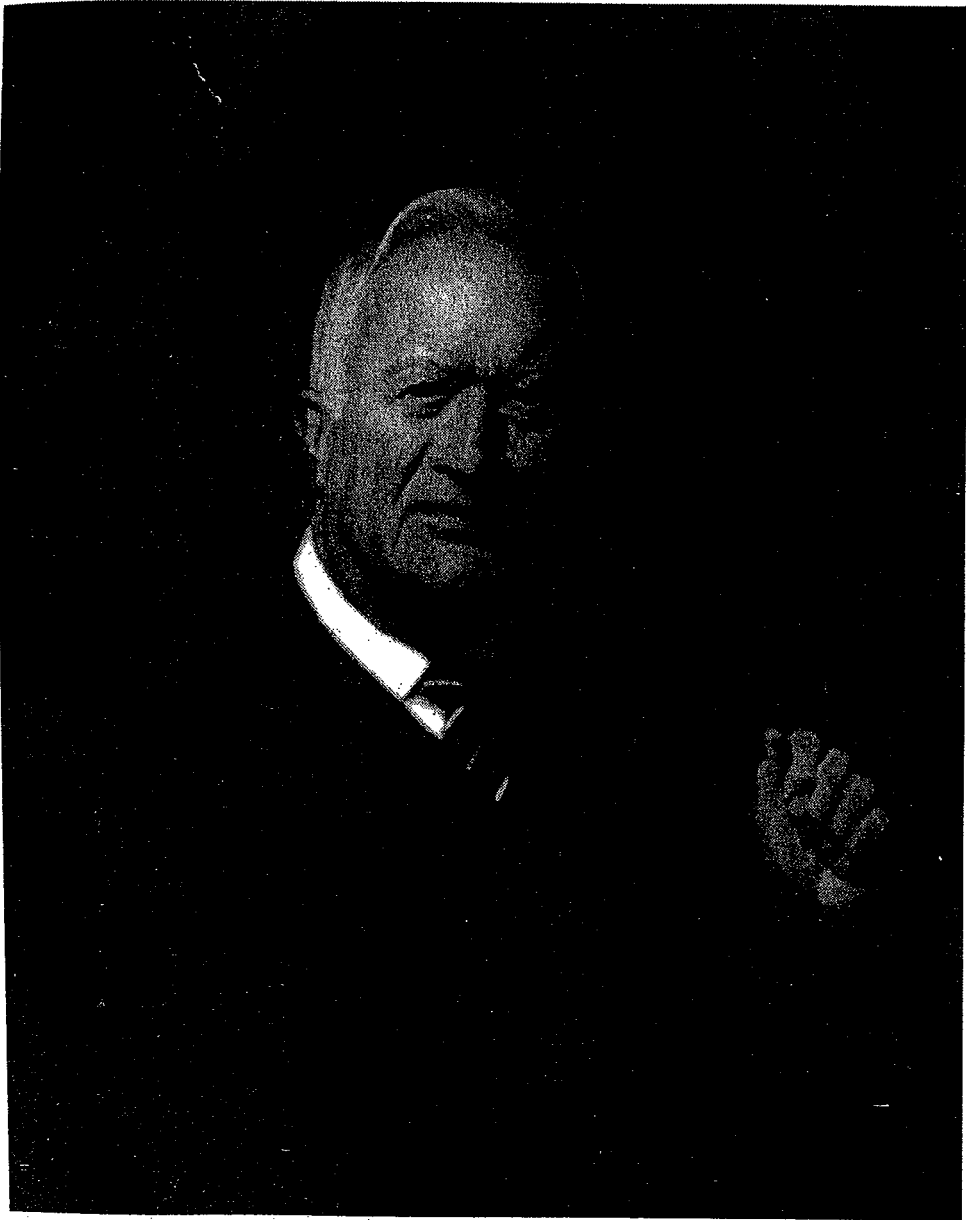
December 17, 1992
Washington, D.C.

Before:

THE HONORABLE ABNER J. MIKVA, CHIEF JUDGE
THE HONORABLE PATRICIA M. WALD
THE HONORABLE HARRY T. EDWARDS
THE HONORABLE RUTH BADER GINSBURG
THE HONORABLE LAURENCE H. SILBERMAN
THE HONORABLE STEPHEN F. WILLIAMS
THE HONORABLE DOUGLAS H. GINSBURG
THE HONORABLE DAVID B. SENTELLE
THE HONORABLE A. RAYMOND RANDOLPH
THE HONORABLE GEORGE E. MACKINNON, SENIOR JUDGE
Circuit Court Judges

Also Appearing:

THE HONORABLE WILLIAM P. BARR,
Attorney General of the United States
THE HONORABLE KENNETH W. STARR,
Solicitor General of the United States
RAMSAY D. POTTS, ESQUIRE,
Attorney at Law, Washington, D.C.
HAROLD H. KOH, ESQUIRE,
Professor of Law, Yale Law School
DAVID D. HILLER, ESQUIRE,
Attorney at Law, Chicago, Illinois
THE HONORABLE MALCOLM RICHARD WILKEY,
Honoree



HONORABLE MALCOLM R. WILKEY

Proceedings

JUDGE MIKVA: First let me welcome all of our colleagues from other courts, and distinguished members of the bar, and distinguished guests, and other friends of our honoree. This is a very special hanging that is going on in this court today: the hangee is alive and well, and we hope that he may even feel better after we have delivered judgment on him today.

When I came to this court, shortly after the Civil War, Judge Wilkey was already a seasoned jurist here. And his judging career was only the latest entry on a long list of prior engagements that he had already fulfilled, both private sector and public sector, everywhere from the W.P.A. to Kennecott Copper. Public and private, he had been a man of many, many causes, as you will hear from our speakers today.

A great essayist once proclaimed that "There is no man so good, who, were he to submit all his thoughts and actions to the laws, would not deserve hanging ten times over." And so while we could be hanging Ambassador Wilkey, or Prosecutor Wilkey, or Professor Wilkey, today we only hang Judge Wilkey. And it is a great pleasure for all of us on this court to participate in this ceremony and to welcome back our distinguished colleague.

Our first speaker today was supposed to be former Chief Justice Burger, who was our circuit justice during Judge Wilkey's tenure on this court. Unfortunately he is ill and he has asked me to read the following letter about Judge Wilkey.

"Dear Abner: I profoundly regret that a severe bout with the 'Minnesota flu' prevents me from being present in person today for the unveiling of Malcolm Wilkey's portrait. I assured you last week that I would be present, but I underrated the vigor of the viral infection which I came down with on a recent visit to Minnesota.

"I have had the privilege of knowing Malcolm for over 40 years. We first became acquainted when I was Assistant Attorney General and he was a United States Attorney in Texas. From there, as you know, he came to Washington, occupying the position of Assistant Attorney General in two different divisions. After his tenure at the Department of Justice, he became general counsel of Kennecott Copper Corporation, one of America's great corporations.

PRESENTATION OF PORTRAIT

"Some twenty-three years ago, Malcolm pushed me off of the Court of Appeals and took my place, making it necessary for me to accept employment in another court in town. On a serious note, Malcolm's experience at the upper levels in both the private sector and the United States Government surely gave him a unique set of qualifications for a position in the Federal judiciary.

"After leaving the Court of Appeals, President Reagan appointed him to be the United States Ambassador to Uruguay. Most recently he occupied a position as a special prosecutor in the Department of Justice. Malcolm's conduct in that office reminds me of one of the attributes I admire most about him: he always conducts himself in strict accordance with the highest traditions and standards of the legal profession. He is not seen on television or in press conferences on courthouse steps, but rather influences the legal process through more distinguished and profound ways. His career has been an example to all of us.

"Please convey my regrets to Malcolm and my warm congratulations on his splendid career. Sincerely, Warren E. Burger."

Our first speaker then, today, will be the Attorney General of the United States, and former law clerk of Judge Wilkey, the Honorable William P. Barr. General Barr.

MR. BARR: May it please the court, judges, and distinguished guests, it is a real privilege for me to be able to join with all of you this afternoon to honor Judge Wilkey. I think it is fitting that as we sit here this afternoon, seven years after Judge Wilkey retired from the bench, we still find him actively engaged in service to the country.

As you know he has just completed his work on a very difficult and sensitive matter, the House Bank investigation, and he completed it with characteristic diligence and discretion and most characteristically, right on schedule.

It was very comforting to me over the summer when I was faced with this matter to have him come right from Montevideo, come into my office with a checklist of things that had to be done, and a schedule for doing it. I was comforted to know that at 0900 on 15 May, 1992, certain bench marks would be met, and sure enough they were all met, and last night I accepted his report.

All of those who were initially cynical or skeptical about this investigation to begin with have been won over by Judge Wilkey, and at least in private are extremely laudatory about the professionalism and the fairness with which he has handled this delicate inquiry.

HONORABLE MALCOLM R. WILKEY

Just a couple of days ago the F.B.I. agents who worked with the Judge on this project came by my office for me to thank them for their efforts, and during our meeting it was really those agents who ended up thanking me for the opportunity to work with Judge Wilkey. They were very frank to say that as F.B.I. agents they don't usually like this kind of special assignment, but they said that for all of them it really turned out to be one of the high points of their careers.

They said that they really learned a lot from the Judge, not just about how to conduct an investigation, but about judgment, about character, and fairness. It was obvious that in a very short time they had come to have great affection for Judge Wilkey. And this incident, as all his law clerks know, is typical.

It has been my privilege to know the Judge for over 16 years, and I still remember my first meeting with him, my interview for my clerkship. It is fair to say that I approached it with great trepidation. I was a night law student at G.W. I was working in the legislative shop at C.I.A., and I was sure that he was going to be grilling me about the latest legal developments and constitutional legal doctrines, and I'd actually done some brushing up so I appeared to be semi-literate in the law.

As I walked towards his desk, I saw this picture of George Patton and his commission, Judge Wilkey's commission in the Third Army, and I sort of tried a little diversion that I think General Patton may have appreciated. I said, oh, you served in the Third Army under General Patton. And he said, yes, what do you know about the Third Army?

And I proceeded to discuss it, and he proceeded to discuss for most of the interview the Third Army's campaigns and General Patton's campaigns in North Africa, and so forth. For some of you this may clear up a mystery how I ever got to be a clerk of Judge Wilkey's.

But this was my first indication that I was dealing with someone whose interests went far beyond the law. And while like all of you I am consistently impressed by Judge Wilkey's legal brilliance, I think that I have been even more impressed by the breadth of his knowledge, and his wisdom, and his interests. He is truly a renaissance man. And one of the finest memories I will always have is my year with my co-clerk, Al Lauber, our weekly Chinese lunches with Judge Wilkey.

I remember Al and I started going out every week to a Chinese restaurant. We said, well, gee, maybe the Judge would want to come along. We had the temerity to go into his office and ask him, and he said, sure. So from then on, every week we had our Chinese lunch and we sat and talked about everything under the sun

PRESENTATION OF PORTRAIT

whether it be music, or history, or public affairs. It really was one of the most enjoyable times that I have ever had.

Serving as Judge Wilkey's law clerk was certainly a turning point for me, as I know it was for all of his other law clerks who are here today to honor him. Working with him helped to teach me not only how to think about the law, but also I observed first-hand the attributes that have made him such an exceptional public servant, and one that presidents have turned to time and time again for positions of trust and responsibility.

By his daily example he has taught us much about character, and judgment, and integrity. He has been a model for all of us, and it is only fitting that we gather here this afternoon to thank him in some small measure for that.

Goethe said that one is never satisfied with a portrait of a person that one knows. But those of us that have been privileged to know Judge Wilkey are nonetheless very satisfied on this occasion, because this portrait will remind generations of lawyers of the legacy which Judge Wilkey crafted in this building, and in this city.

So, Judge Wilkey, you have been a teacher, and a friend, and a mentor, and thank you for all that you have given us. God bless you and Emma as you continue your remarkable life together.

JUDGE MIKVA: Thank you, General Barr. Our next speaker is a former colleague of Judge Wilkey and of most of the people on this court, the distinguished Solicitor General of the United States, Kenneth Starr. General Starr.

MR. STARR: Judge Mikva, judges of the court, and other judges, guests, and friends of the Judge and Emma Wilkey. Samuel Johnson once observed to Boswell, and apropos of Chief Judge Mikva's remarks about the hanging, that a hanging wonderfully concentrates the mind. And he shared another Johnsonian gem with Boswell, which is that "we frequently stand more in need of being reminded than we do of education."

This afternoon as we are wonderfully concentrating our minds on the happy occasion of Malcolm's hanging, we are also reminding ourselves, and posterity, of the contributions and service of our esteemed friend. For me this is a very happy reminder, indeed, for Judge Wilkey, along with the then Acting Chief Judge of this great court, a beloved former colleague, J. Skelly Wright, were my first judicial contacts on this great court.

Both Skelly and Malcolm showed an extra measure of grace and warmth in welcoming this newcomer to the court in October of 1983. Judge Wilkey, in particular, went the extra mile not only in showing a baby judge the judicial ropes, but in granting me leave to steal away from his chambers, the invaluable Beverly Varley, who is also here today, to establish a new chambers organized on the

HONORABLE MALCOLM R. WILKEY

Wilkey model. And within short order not only did this new kid on the block have the privilege of sitting regularly with Judge Wilkey but also to be introduced to the remarkable and lovely Emma.

All this would surely be debt enough, but there is much more. Malcolm has remained ever the dear and trusted friend. Even early on in professional disagreements that we had on this court, such as in *Laker Airways*, and *Ramirez de Arellano*, Malcolm was the gentleman and the scholarly judge, energetic, forceful, passionate in his convictions, and persuasive in advancing those beliefs. Beyond his intellectual powers and his scholarship, the breadth and range of his learning and his interests were striking.

History was highly integral to Judge Wilkey's thinking. He saw and understood the great movements of history, yet he was mindful of the role of the individual and of the rule of law—the rule of law in the shaping of society.

But not everything was so dreadfully serious. One also recalls the chef salads in the judges' dining room, at 12 noon sharp, with Judge Tamm, may he rest in peace, presiding at the table and Mary Adams looking after us. The companionship, warmth, and camaraderie of that room were vitally important to an outgoing Kentuckian who had made Houston, and then Washington, New York, and then Washington, and now Santiago his home.

Folks that are fortunate enough to be raised in Kentucky, smart enough to be educated at Harvard, and then brilliant enough to move to the great state of Texas plainly have the soul of an explorer within them. The land of Daniel Boone and Henry Clay, and the adopted land of Davy Crockett and Sam Houston, saw Judge Wilkey grow and prosper professionally, but evidencing all the while what turned out to be an unfailing commitment to public service.

In the fullness of time, after his remarkable service here, it surprised none of us from that judges' dining room that the energetic Malcolm Wilkey would give up those wonderful walks in Cambridge at Wolfson's College with Emma and his dear friend, David Williams, chancellor at Cambridge, to take on ambassadorial duties and to promote the rule of law in the new democracies in Emma's home continent. And I was privileged to discover firsthand that promoting democracy in places like Punta del Este can be highly pleasant, as well as very fulfilling.

So, Malcolm and Emma, we salute you for your signal contributions to this court, to the country, and to the broader family of mankind. Malcolm has been a particularly integral part to what will be seen as a new era in the human history, and a happier era, one of freedom, democracy, and the rule of law spreading across the globe. That has been in no small measure due to Malcolm's devotion to what T.S. Eliot simply called "the permanent things."

PRESENTATION OF PORTRAIT

So today's concentration of the minds at the hanging, done in admiration and friendship, serves not as education but as a reminder of the abiding values to Malcolm Wilkey of love of country, patriotic service to his country, and devotion to the rule of law. Thank you.

JUDGE MIKVA: Thank you, General Starr. Our next speaker will be Ramsay D. Potts, attorney at law, Washington, D.C. Mr. Potts.

MR. POTTS: Judge Mikva, this illustrious honorable court, and friends, and judges in the audience, and Malcolm and Emma, it is such a privilege for me to be here today. I first met Malcolm when we entered the Harvard Law School together in 1946. Malcolm had already had an outstanding career as a soldier before he came to the law school.

He entered the Army in 1940, and rose from a second lieutenant to lieutenant colonel through six years of World War II. He had notable experiences in the Normandy Campaign and in the campaign across France, finally ending in sort of a climatic event, at the battle of the Ardennes, known colloquially as the Battle of the Bulge.

Malcolm was an artillery officer, and he had to see that these very large 150 millimeter guns, and others of a larger size, were lugged into place, properly sighted, and made to bear on the enemy. He participated in the siege of the citadel at Brest, which lasted 45 days. During that particular siege he was wounded and awarded the Purple Heart.

Although he was an artillery officer, his analytical abilities were called to the attention of his commanders and they gave him extra duty as an intelligence officer. At the Battle of the Bulge, he happened to be in Bastogne, which was the focal point for the enemy attack. He was ordered to lead his unit out of Bastogne and take up a position somewhere else so that they could still fight on.

He led that unit in the dead of night through a terrible, terrible icy, snowy night where you could hardly see in front of you, and successfully evacuated it to a site 12 miles away where they went into action again. Malcolm—through his analysis of the different reports that he was receiving, advised his division commander and his corps commander in such a way as to prevent the wrong deployment of a division.

I think, probably, in many ways that was a critical event in the American Army winning the Battle of the Bulge. For that he was commended by his division commander and by his corps commander.

When Malcolm and I were at the law school, we had a large number of talented professors, many of whom were quite egotisti-

HONORABLE MALCOLM R. WILKEY

cal and arrogant. One particular professor comes to mind, Professor Thomas Reed Powell. Powell was embittered because he had not been appointed to the Supreme Court and Felix Frankfurter had been. He was certain that he was a greater constitutional scholar than Frankfurter.

One day in his class, he called on a Mr. Harrison to report on a case. Mr. Harrison reported, and Professor Powell asked, who handed down that opinion? Who wrote that opinion? And Harrison said, well, Mr. Justice Douglas. Well, Mr. Harrison, did you know that Mr. Justice Douglas took a course in constitutional law from me? No, Professor, I didn't know that. Well, he did, and I was charitable, I gave him a "C."

Another professor who was highly talented and full of enormous nervous energy was a fellow named Barton Leach. Leach became a good friend, and one night at his house, after dinner, he asked me to come into his study which I did. As we got into his study he started weeping, sobbing, and I said, what is the matter? He said, I just had to tell somebody this. I've had to come to the conclusion that I am not a genius like Cardozo, and Holmes, and Brandeis, I'm merely brilliant.

Well, after law school Malcolm and I lost contact with each other, but then he came back to Washington. I was practicing here, and we resumed our friendship and had many, many wonderful evenings and discussions together. As you know, Malcolm is a great student of history and so our talks would range from subjects such as, was Gaius Marius a better general than Sulla? Did Texas come into the Union only because Andrew Jackson was a close friend of Sam Houston? And other arcane subjects like that. We talked with gusto and zest. I sometimes felt that the muse of history was whispering in Malcolm's ear and humming in his head.

Malcolm's style as a jurist is, I think, about as elegant as that of any judge that I have ever known. The *Laker* opinion is a case in point, full of very complicated issues. I have read that opinion several times just for pleasure and enlightenment. I would describe Malcolm's style as trenchant analysis of complex issues expressed in limpid prose.

So let us all here together celebrate Malcolm as a scholar, as a warrior, as a lawyer, as a jurist, as a statesman. Most of all, let us cherish his friendship and continue to enjoy the pleasure and delight of his company.

JUDGE MIKVA: Thank you, Mr. Potts. The next speaker will be Harold Koh, Professor of Law at Yale Law School, and a former law clerk of Judge Wilkey.

MR. KOH: Judge Wilkey, Emma, honored judges, guests. In my life, I have been blessed with many wonderful teachers, but only a few fathers: my late father, my father-in-law, and my

PRESENTATION OF PORTRAIT

father-in-the-law, Judge Wilkey. I consider him so special, as all of his clerks do, not only because of what he taught us, or the kindness he showed us, but because of what he taught us about kindness: a father's kind of lesson.

I learned my first lesson from Judge Wilkey 14 years ago, when I met him during my clerkship interview. I had heard that Judge Wilkey was a conservative; indeed, some suggested that he might be more conservative than I. I wondered whether I might be subjected to a political litmus test. But in the first moment, Judge Wilkey said to me, "Harold, you know there are two things that I never ask any of my law clerks: their religion or their politics." And he never asked again, throughout that entire year. Thus, Judge Wilkey taught me my first lesson: that he is a man who cares not about ideology, but about character, how hard you work, how honest you are, how carefully you think.

My second lesson came only a few months later, after I had accepted the clerkship and was working as a summer associate at a Washington law firm. The first major guest that summer at the weekly firm luncheon was The Honorable Malcolm Wilkey, and I was the least important person in the room. Judge Wilkey was immediately surrounded by many of the powerful partners in the firm, who engaged him in conversation. But somehow, he spotted me over in the corner, cleared a path to me, and announced, "I just want all of you people to know how lucky you are to have this fine young fellow working for you!"

And then he announced that it was time for him to go back to the chambers, because he had work to do. But as he started to walk away, he gestured for me to follow. When we got outside he said, "Harold, I actually don't have any work to do; so why don't I take you out for a cup of coffee?" That taught me something else about this man; that for him, family comes first. Malcolm Wilkey is not the kind of person who shoves his subordinates aside when more important people are in the room.

My third lesson came during the clerkship year itself, when my co-clerk and I were both called for interviews by the same Supreme Court justice. My co-clerk was the more qualified applicant (and indeed, he got the clerkship) but what I will never forget is that when the Justice called Judge Wilkey and asked the question, "which of these two do you favor?" Judge Wilkey answered, "I don't choose among my clerks. I took them both and so should you." And that taught me that when it comes to family, Judge Wilkey does not play favorites.

I learned more from Judge Wilkey than just lessons about life. I learned lessons about law, and particularly about international law. In that regard I could not have had a better mentor, for Judge Wilkey was and is the most prominent international lawyer

HONORABLE MALCOLM R. WILKEY

to sit on the Federal bench in this century. He has actually had five careers, all of which have touched international law: as an ambassador, as a judge, as an arbitrator in private and business practice, and in government service, (where he attended in 1959 the International Conference on Judicial Remedies, where he met his dear wife, Emma). Judge Wilkey practiced international law on the ground as General Counsel of Kennecott Copper Corporation, as an editor of *The International Lawyer* journal, and in his most recent career as Ambassador to Uruguay. More than anyone, with the possible exception of my late father, Judge Wilkey has guided me in my own career in international law. (I know that is not a career that has given everybody in the room unvarnished pleasure, but all I can say is that that is another thing for which we can be grateful to Judge Wilkey.)

To measure Judge Wilkey's contributions one must remember how rare it is that someone who has left the bench more than seven years ago is still making important contributions to international law. A number of his cases have had lasting impact. A computer search conducted today reveals that four of his opinions are regularly cited. One, his opinion in *Pain v. United Technologies Corporation*, on *forum non conveniens* dismissal, has been cited nearly 150 times, and led to the Supreme Court's decision in *Piper Aircraft v. Reyno*. His decision in the case of *FTC v. Compagnie de Saint-Gobain-Pont-a-Mousson* on extraterritoriality, was the first case to apply the international law of jurisdiction in the manner proposed by the new Third Restatement on Foreign Relations Law. The question raised there is now prominently at issue before the Supreme Court in the *Hartford Fire Insurance* case. His famous and wonderful decision in the *Laker Airways v. Sabena* is still the classic opinion on conflicts of antitrust jurisdiction, and on the role of courts in dealing with antisuit injunctions.

My favorite Wilkey decision, *Ramirez de Arellano v. Weinberger*, is a case in which, I think, Judge Wilkey showed what being a judge is all about. That case, as you may recall, provoked a large conflict within this *en banc* court. It involved U.S. military action on a U.S. citizen's land in Honduras, Judge Wilkey wrote the dissent that provoked the *en banc* opinion, and later wrote the *en banc* opinion that declared the U.S. action illegal.

One of the dissenters said, "the judiciary, according to the majority (namely Judge Wilkey) believes it has some special charter to keep the Executive Branch in line." To which Judge Wilkey responded, "the judiciary does operate under some 'special charter' to help preserve the fundamental rights of this nation's citizens. That charter is commonly known as the U.S. Constitution."

I once saw a play called "I Never Sang For My Father." As a lawyer, I never had an opportunity to argue in front of Judge

PRESENTATION OF PORTRAIT

Wilkey in this courtroom. Maybe someday all of us will have a chance to argue before Judge Wilkey at the International Court of Justice. But until then, we must settle for this wonderful portrait, which will be unveiled shortly. May it please the Court. Thank you.

JUDGE MIKVA: Thank you, Professor Koh. Our next speaker is another former law clerk to Judge Wilkey, and someone who did a great deal of the arranging for today's events, David Hiller, Esquire, attorney at law, Chicago, Illinois.

MR. HILLER: Thank you, Chief Judge Mikva, judges, Judge Wilkey, Mrs. Wilkey, friends, and guests. This is a joyous day for all of us who have been blessed with knowing the Judge and Mrs. Wilkey, whether as colleague, friend, family, or law clerk. As all of you who know them know, they don't readily make such distinctions. We've all been enriched by and enjoyed their enormous generosity, their friendship, their wisdom, their bountiful goodwill. It has been an extraordinary thing for all of us to know them.

I will relate one story about the Judge's unflappable graciousness. That was one day he had the—it turned out to be ill-judgement to ask me to take him to an important meeting across town. I was driving a Ford Pinto which was old even in 1978, and it had a problem with its sun roof which was that it used to take in water. It was cold and the Judge, as always, was impeccably dressed, he had his trenchcoat on and, thankfully, also had his hat on.

I pulled up to a stop light, and, by my measurement, approximately a gallon and a half of ice cold water poured out of the roof and down the back of the Judge's collar. And with one of those inscrutable smiles, he just sort of looked over at me, said nothing, and I obviously had nothing to say, and on we drove.

I said all of us have benefitted, and perhaps none of us have benefitted more from knowing Emma and the Judge than the law clerks. There are 37 of us, and happily many are here today, and every one of the law clerks, given the indulgence of the court, which we won't ask, could have come and stood and told you personal stories. The Attorney General did, and Professor Koh, because each of us in a special way were touched by both the Judge and Emma, and we will never forget them for that.

And to show our appreciation to the Judge, and commemorate his service on the court, and his service to our country, the clerks asked Mr. Abrams, who is one of the country's foremost portrait artists to paint the Judge's portrait. I am hoping he is with us today although I have not seen him. There, as a self-effacing artist, far in the back, Mr. and Mrs. Abrams, welcome.

And as all of you know, capturing the essence of Judge Wilkey in a medium that doesn't move is not an easy matter. I believe you

HONORABLE MALCOLM R. WILKEY

will agree that Mr. Abrams has done a masterful job attempting to do that. So, Chief Judge Mikva, on behalf of all the judge's clerks, we would like to present this portrait of Judge Wilkey to the Court of Appeals. (Pause to unveil portrait.) (applause)

JUDGE MIKVA: Thank you, Mr. Hiller. The court receives the portrait with great enthusiasm, and it will hang in a prominent place in this courthouse. Judge Wilkey, the condemned man, is always entitled to the last word. We would love to hear from you.

JUDGE WILKEY: Chief Judge, may it please the court, I am not officially on the program here today, but as the subject of the portrait, and the portrait will speak for itself, I must rise to say a few words, not to add to these overly generous, warm, and witty words of my friends who have already spoken. I couldn't do that, and certainly I wouldn't try to refute it. I'll just let the record stand as made.

But I want to say words of thanks to those of you, all of you here who have made this wonderful event possible. First of all to those who originated the idea, my law clerk and secretary, and to those 37 law clerks who carried it out, by that I mean David Hiller, and Al Lauber, and the others who sponsored the portrait to present to the court today. We are eternally grateful to them. We are grateful to Chief Judge Mikva and the court for this very moving—for us, Emma and me—very moving ceremony.

I am grateful, Mr. Chief Judge, to Chief Justice Burger for that warm letter. Warren Burger, as he said in his letter, has been my friend for almost 40 years since we served in the Eisenhower administration as appointees of President Eisenhower. And then I had the great honor and privilege of taking his seat on the bench, which is occupied today by one of you. You can figure out later which.

And my thanks to the Attorney General, Bill Barr, whose outstanding talents brought him to the attention, and to several offices by appointment, of two presidents—after I picked him as my law clerk. And to Ken Starr, my colleague in my happy closing years on the bench here, I am grateful for your participation. We had some epochal cases in that limited time that we were together.

And to Ramsay Potts, my colleague, who together we went through the rigors of those three years at the Harvard Law School. We had in those days also shared the experiences, he in the air and I on the ground, of the great experience we had been through in Europe. I would like to tell you about Ramsay Potts' exploits in The War. Mine were feeble compared to what he did.

And to Harold Koh, who has achieved such preeminence in a very short time in the academic world. And Harold was one of the 15 of my law clerks who served in the administration of three of

PRESENTATION OF PORTRAIT

our recent presidents and now is stirring up business in the Justice Department.

And to retiring Herbert Abrams, over in the corner there, thanks to him for this wonderful portrait. You did such a marvelous job considering the poor material you had to work with.

And to all of you who came to be with Emma and me today. Some of you came from a long distance away, and we are very grateful. And some of you here today, like my friend Ed Butler, and like Judge MacKinnon on the bench, were here when I took the oath of office for this service for 15 years on this court. I thank you all. (applause)

JUDGE MIKVA: Thank you, Judge Wilkey, for inspiring the kind of enthusiasm that was demonstrated here today. The court, and I'm sure, Judge Wilkey, invites everybody to take a closer look at the portrait. There will be a reception in the judges' dining room after you have had a chance to look at the portrait. The marshal will now adjourn the court.

THE MARSHAL: Please stand. This honorable court has adjourned until Friday morning, 9:30 a.m.

(Whereupon, at 4:45 p.m., the ceremony was concluded.)

THE ATTORNEY GENERAL'S 41ST ANNUAL AWARDS CEREMONY
DECEMBER 14, 1992 - 2:00 P.M.
THE DEPARTMENTAL AUDITORIUM

THE ATTORNEY GENERAL, THE DEPUTY ATTORNEY GENERAL, THE ASSOCIATE ATTORNEY GENERAL, AND HEADS OF MAJOR DEPARTMENT COMPONENTS WHO WILL PARTICIPATE IN THE PRESENTATION OF AWARDS ENTER ON STAGE AND ARE SEATED.

DEPUTY ATTORNEY GEORGE J. TERWILLIGER, III, GOES TO THE LECTERN.

MR. TERWILLIGER: GOOD AFTERNOON AND WELCOME TO THE ATTORNEY GENERAL'S 41ST ANNUAL AWARDS CEREMONY. WE GATHER TOGETHER TODAY TO RECOGNIZE A VERY SPECIAL GROUP OF OUR FELLOW EMPLOYEES AS WELL AS SEVERAL INDIVIDUALS FROM OUTSIDE THE DEPARTMENT WHO HAVE MADE SIGNIFICANT CONTRIBUTIONS OR ACHIEVEMENTS TOWARD THE ACCOMPLISHMENT OF THE DEPARTMENT'S MISSION. WE ARE ALSO PRIVILEGED TO HAVE IN ATTENDANCE FAMILY MEMBERS, FRIENDS, AND COLLEAGUES OF THE AWARD RECIPIENTS TO HELP US PAY TRIBUTE TO THESE INDIVIDUALS. WOULD YOU PLEASE STAND NOW FOR THE PRESENTATION OF THE COLORS AND THE PLAYING OF OUR NATIONAL ANTHEM BY THE PRESIDENT'S OWN UNITED STATES MARINE BAND BRASS QUINTET.

THE COLOR GUARD PRESENTS THE COLORS, THE BAND PLAYS THE NATIONAL ANTHEM, AND THE COLORS ARE RETIRED. AFTER THE COLORS ARE RETIRED, THE BAND WILL IMMEDIATELY PLAY THE MARINE CORPS HYMN. PLEASE WAIT UNTIL THEY HAVE FINISHED THE HYMN BEFORE THANKING THEM.

MR. TERWILLIGER: LADIES AND GENTLEMEN, PLEASE JOIN ME IN THANKING THE UNITED STATES MARINE BAND BRASS QUINTET AND THE JOINT ARMED FORCES COLOR GUARD FOR THEIR SUPERB PERFORMANCE BY GIVING THEM A ROUND OF APPLAUSE . . . THANK YOU. PLEASE BE SEATED

MR. TERWILLIGER: AT THIS TIME, I AM PLEASED TO ACKNOWLEDGE THE PRESENCE ON STAGE OF THE HONORABLE THOMAS C. RICHARDS, ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION, AND THE HONORABLE JOHN F. TURNER, DIRECTOR OF THE U.S. FISH AND WILDLIFE SERVICE. TWO OF GENERAL RICHARDS' EMPLOYEES AND ONE EMPLOYEE OF MR. TURNER'S ARE AWARD RECIPIENTS TODAY AND THEY HAVE BEEN GRACIOUS ENOUGH TO ATTEND OUR CEREMONY. THANK YOU BOTH VERY MUCH FOR COMING . . .

IT IS NOW MY PLEASURE TO INTRODUCE THE ATTORNEY GENERAL OF THE UNITED STATES, THE HONORABLE WILLIAM P. BARR.

MR. BARR: PREPARED REMARKS

MR. BARR: THE ATTORNEY GENERAL'S EXCEPTIONAL SERVICE AWARD IS THE HIGHEST FORM OF RECOGNITION BESTOWED BY THE DEPARTMENT, AND I AM PLEASED THIS YEAR TO PRESENT THIS AWARD TO J. BRUCE MOUW, WHO IS A SUPERVISORY SPECIAL AGENT WITH THE FEDERAL BUREAU OF INVESTIGATION'S NEW YORK FIELD OFFICE. SPECIAL AGENT MOUW IS BEING RECOGNIZED FOR HIS OUTSTANDING LEADERSHIP AND THE EXTRAORDINARY INITIATIVE HE DISPLAYED IN DEVELOPING A STRATEGIC PLAN IN WHICH A PROMINENT GAMBINO FAMILY UNDERBOSS, SALVATORE "SAMMY BULL" GRAVANO, WAS RECRUITED AS A WITNESS FOR THE FEDERAL GOVERNMENT. SPECIAL AGENT MOUW'S INVESTIGATIVE EFFORTS LED TO THE SUCCESSFUL PROSECUTION AND CONVICTION OF THE GAMBINO LA COSA NOSTRA FAMILY LEADERSHIP, INCLUDING A SENTENCE OF LIFE WITHOUT PAROLE FOR JOHN GOTTI, THE MOST INFAMOUS SYNDICATE BOSS SINCE AL CAPONE. SPECIAL AGENT MOUW . . .

MR. BARR RECEIVES THE AWARD DEVICE FROM THE STAFF MEMBER BEHIND HIM ON THE STAGE AND GOES TO THE RIGHT FRONT OF THE LECTERN (FACING THE AUDIENCE). SPECIAL AGENT MOUW COMES UP THE STEPS FROM HIS RESERVED SEAT IN THE AUDIENCE, AND WALKS IN FRONT OF THE LECTERN TO THE MIDDLE OF THE THREE X'S MARKED BY TAPE ON THE STAGE IN FRONT OF THE LECTERN, SHAKES MR. BARR'S HAND, AND RECEIVES THE AWARD DEVICE. MR. BARR STANDS ON THE X MARKED BY TAPE TO THE RIGHT OF SPECIAL AGENT MOUW FACING THE AUDIENCE. DIRECTOR SESSIONS COMES FROM HIS SEAT ON THE STAGE TO THE LEFT OF THE LECTERN FACING THE AUDIENCE, SHAKES SPECIAL AGENT MOUW'S HAND AND STANDS ON THE X MARKED BY TAPE TO THE LEFT OF SPECIAL AGENT MOUW FACING THE AUDIENCE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH AS DEPICTED BELOW.

[Lectern]

X X X
AG MOUW SESSIONS

A U D I E N C E

SPECIAL AGENT MOUW LEAVES THE STAGE VIA THE STEPS TO HIS RIGHT AND RETURNS TO HIS SEAT. DIRECTOR SESSIONS RETURNS TO HIS SEAT ON THE STAGE AND MR. BARR RETURNS TO THE LECTERN. (SUBSEQUENT PRESENTATIONS TO INDIVIDUAL RECIPIENTS WILL BE DONE IN THE SAME MANNER).

MR. BARR: THE WILLIAM FRENCH SMITH AWARD FOR OUTSTANDING CONTRIBUTION TO COOPERATIVE LAW ENFORCEMENT WAS CREATED TO COMMEMORATE FORMER ATTORNEY GENERAL SMITH FOR HIS STRONG SUPPORT OF LAW ENFORCEMENT COORDINATING COMMITTEES AND THE ROLE THEY PLAY IN ENSURING COOPERATION AMONG FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT ORGANIZATIONS. THE INTENT OF THIS AWARD IS TO PROVIDE RECOGNITION TO INDIVIDUALS WHO HAVE SERVED ON SUCH COMMITTEES AND HAVE MADE OUTSTANDING CONTRIBUTIONS TO THEIR OPERATIONS AND EFFECTIVENESS. I AM HONORED TO ANNOUNCE THAT THIS YEAR'S AWARD IS PRESENTED TO WILLIE L. WILLIAMS, WHO IS CURRENTLY THE CHIEF OF POLICE OF THE LOS ANGELES POLICE DEPARTMENT. CHIEF WILLIAMS IS BEING RECOGNIZED FOR HIS OUTSTANDING EFFORTS IN

PROMOTING COOPERATIVE LAW ENFORCEMENT WHILE SERVING AS POLICE COMMISSIONER FOR THE CITY OF PHILADELPHIA, PENNSYLVANIA, FROM 1988 TO 1992. AS AN ACTIVE MEMBER OF THE LAW ENFORCEMENT COORDINATING COMMITTEE DURING THIS PERIOD, CHIEF WILLIAMS' EMPHASIS ON COMMUNITY POLICING AND COOPERATION BETWEEN FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT AGENCIES LED TO THE DEVELOPMENT OF THE HIGHLY SUCCESSFUL VIOLENT TRAFFICKERS PROJECT. SINCE 1988, MORE THAN 650 DEFENDANTS HAVE BEEN PROSECUTED AND MORE THAN \$5 MILLION IN ASSETS HAVE BEEN SEIZED UNDER THIS PROGRAM. MICHAEL BAYLSON, UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA, WILL ACCEPT THE AWARD FOR CHIEF WILLIAMS WHO IS UNABLE TO BE WITH US TODAY. MR. BAYLSON . . .

MR. BARR SHAKES MR. BAYLSON'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON STAGE AND SHAKES MR. BAYLSON'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BARR: THE ATTORNEY GENERAL'S AWARD FOR EXCEPTIONAL HEROISM RECOGNIZES EXTRAORDINARY COURAGE, SELF-SACRIFICE, AND DEDICATION TO DUTY. THIS AWARD HAS SPECIAL SIGNIFICANCE IN THIS DEPARTMENT BECAUSE OF THE INHERENT HAZARDS THAT ARE FREQUENTLY ENCOUNTERED BY OUR LAW ENFORCEMENT PERSONNEL. IT IS ONLY THROUGH THEIR COURAGE, HEROISM, AND DEVOTION TO DUTY THAT THE DEPARTMENT IS ABLE TO FULFILL ITS LAW ENFORCEMENT MANDATE. I AM PLEASED TO PRESENT THIS YEAR'S AWARD TO GEORGE A. AUFLICK, WHO IS THE DRUG ENFORCEMENT ADMINISTRATION'S ASSISTANT COUNTRY ATTACHE FOR OPERATIONS IN LA PAZ, BOLIVIA. WHILE PARTICIPATING IN A RAID AGAINST A CLANDESTINE JUNGLE COCAINE PROCESSING LABORATORY, MR. AUFLICK'S GROUP WAS AMBUSHED BY TWO ARMED DRUG TRAFFICKERS. MR.

AUFLICK DROVE OFF THE AMBUSHERS BY AN EXCHANGE OF RIFLE FIRE AT CLOSE RANGE. MR. AUFLICK WAS WOUNDED IN THE SKIRMISH, AND WE'RE GLAD TO HAVE HIM HERE TODAY. MR. AUFLICK

MR. BARR SHAKES MR. AUFLICK'S HAND AND PRESENTS THE AWARD DEVICE. MR. BONNER COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. AUFLICK'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BARR: THE ATTORNEY GENERAL'S SPECIAL RECOGNITION AWARD IS PRESENTED TO JOHN WALSH, HOST OF FOX BROADCASTING'S "AMERICA'S MOST WANTED" PROGRAM, FOR HIS CREATIVE ASSISTANCE IN THE ENFORCEMENT OF THE NATION'S CRIMINAL LAWS. AS OF DECEMBER 1992, THE PROGRAM HAS BEEN DIRECTLY RESPONSIBLE FOR THE CAPTURE OF 232 FUGITIVES OUT OF THE 530 PROFILED ON THE SHOW, INCLUDING EIGHT FUGITIVES FROM THE FEDERAL BUREAU OF INVESTIGATION'S "TEN MOST WANTED LIST." MR. WALSH . . .

MR. BARR SHAKES MR. WALSH'S HAND AND PRESENTS THE AWARD DEVICE. MR. MCNULTY COMES FROM HIS SEAT ON STAGE AND SHAKES MR. WALSH'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BARR: THE ATTORNEY GENERAL'S MEDALLION IS A SPECIAL AWARD CREATED TO RECOGNIZE SIGNIFICANT CONTRIBUTIONS TOWARD THE ACCOMPLISHMENT OF THE DEPARTMENT'S MISSION. THIS YEAR, THE ATTORNEY GENERAL'S MEDALLION IS PRESENTED TO THOMAS R. KANE, ASSISTANT DIRECTOR, FEDERAL BUREAU OF PRISONS, FOR HIS OUTSTANDING STEWARDSHIP AS ACTING DIRECTOR OF THE FEDERAL PRISON SYSTEM DURING THE EXTENDED ABSENCE OF THE DIRECTOR. HIS CAPABLE LEADERSHIP ENABLED THE BUREAU OF PRISONS TO EXPAND THE EXCELLENCE OF ITS PROGRAMS AND MAINTAIN ITS PREMINENCE IN THE FIELD OF CORRECTIONS. MR. KANE . . .

MR. BARR SHAKES MR. KANE'S HAND AND PRESENTS THE AWARD DEVICE.
DR. HAWK COMES FROM HER SEAT ON STAGE AND SHAKES MR. KANE'S HAND.
ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BARR: THE ATTORNEY GENERAL'S MERITORIOUS PUBLIC SERVICE AWARD HONORS PRIVATE CITIZENS WHOSE CONTRIBUTIONS HAVE SIGNIFICANTLY ASSISTED THE DEPARTMENT OF JUSTICE IN ATTAINING ITS OBJECTIVES. THIS YEAR, I AM PLEASED TO PRESENT THE AWARD FOR MERITORIOUS PUBLIC SERVICE TO RICHARD ELLIOTT JOHNSON, A CHARTER BOAT CAPTAIN FROM HILTON HEAD, SOUTH CAROLINA. AT GREAT PERSONNEL RISK, MR. JOHNSON PROVIDED INVALUABLE ASSISTANCE TO THE FBI BY PARTICIPATING IN TWO UNDERCOVER OPERATIONS WHICH RESULTED IN THE APPREHENSION AND ARREST OF 13 COCAINE SMUGGLERS, THE SEIZURE OF MORE THAN 809 KILOGRAMS OF COCAINE, AND THE SEIZURE OF MORE THAN \$1.8 MILLION IN CASH AND OTHER ASSETS. MR. JOHNSON

. . . .

MR. BARR SHAKES MR. JOHNSON'S HAND AND PRESENTS THE AWARD DEVICE.
DIRECTOR SESSIONS COMES FROM HIS SEAT ON THE STAGE AND SHAKES
MR. JOHNSON'S HAND. ALL THREE FACE FORWARD FOR A GROUP
PHOTOGRAPH.

MR. BARR: THE ATTORNEY GENERAL'S AWARD FOR LIFETIME OR CAREER ACHIEVEMENT IS GIVEN TO THOSE EMPLOYEES WHO HAVE SERVED AT LEAST 20 YEARS IN THE DEPARTMENT AND WHO HAVE DEMONSTRATED HIGH STANDARDS OF EXCELLENCE AND DEDICATION THROUGHOUT THEIR CAREERS. TWO LIFETIME OR CAREER ACHIEVEMENT AWARDS WILL BE GRANTED THIS YEAR. THE FIRST AWARD GOES TO BERNARD M. HOLLANDER, SENIOR TRIAL ATTORNEY IN THE ANTITRUST DIVISION'S PROFESSIONS AND INTELLECTUAL PROPERTY SECTION, FOR HIS DISTINGUISHED 43-YEAR

CAREER. DURING THAT TIME, HE HAS BEEN FIRMLY COMMITTED TO THE AGGRESSIVE, BUT FAIR, ENFORCEMENT OF THE NATION'S ANTITRUST LAWS. DURING HIS CAREER, MR. HOLLANDER HAS HANDLED THE PREPARATION AND PROSECUTION OF SOME OF THE MOST SIGNIFICANT CASES IN THE ANTITRUST DIVISION'S HISTORY. MR. HOLLANDER . . .

MR. BARR SHAKES MR. HOLLANDER'S HAND AND PRESENTS THE AWARD DEVICE. MR. JAMES COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. HOLLANDER'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BARR: THE SECOND CAREER ACHIEVEMENT AWARD IS PRESENTED TO JOHN C. KEENEY, DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, FOR HIS SUSTAINED EXCELLENCE AND OUTSTANDING RECORD OF ACHIEVEMENT DURING HIS 41-YEAR CAREER WITH THE DEPARTMENT. HIS EXPERT HANDLING OF CASES RANGING FROM THE PROSECUTION OF HIGH PUBLIC OFFICIALS TO THE EXTREMELY SENSITIVE ISSUES SURROUNDING ELECTRONIC SURVEILLANCE, AND HIS EFFORTS ON BEHALF OF IMPORTANT LEGISLATIVE ISSUES OVER THE LAST FOUR DECADES HAVE MADE HIM ONE OF THE BEST-KNOWN AND MOST HIGHLY RESPECTED OFFICIALS IN THE FEDERAL LAW ENFORCEMENT COMMUNITY. MR. KEENEY . . .

MR. BARR SHAKES MR. KEENEY'S HAND AND PRESENTS THE AWARD DEVICE. MR. MUELLER COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. KEENEY'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BARR RETURNS TO HIS SEAT ON THE STAGE AND MR. TERWILLIGER GOES TO THE LECTERN.

MR. TERWILLIGER: THE ATTORNEY GENERAL'S DISTINGUISHED SERVICE AWARD IS THE SECOND HIGHEST FORM OF RECOGNITION BESTOWED BY THE

DEPARTMENT, AND I AM PLEASED TO ANNOUNCE THAT WE WILL PRESENT THIS AWARD TO 15 INDIVIDUALS OR GROUPS THIS YEAR. THE FIRST AWARD IS PRESENTED TO JAMES R. ASPERGER, CHIEF OF THE MAJOR FRAUDS SECTION IN THE OFFICE OF THE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA, FOR HIS NATIONAL ROLE IN INVESTIGATING AND PROSECUTING WHITE COLLAR CRIMES PERPETRATED ON THE GENERAL PUBLIC AND ON NATIONAL FINANCIAL MARKETS. MR. ASPERGER . . .

MR. TERWILLIGER REMAINS BEHIND THE LECTERN. MR. BARR SHAKES MR. ASPERGER'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. ASPERGER'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. TERWILLIGER: THE SECOND DISTINGUISHED SERVICE AWARD IS PRESENTED TO A GROUP OF SIX FEDERAL EMPLOYEES FOR THEIR OUTSTANDING REPRESENTATION OF THE UNITED STATES IN THE INVESTIGATION OF AND LITIGATION WITH EXXON CORPORATION AND EXXON SHIPPING COMPANY IN REGARD TO THE MARCH 1989 EXXON VALDEZ OIL SPILL. FROM THE ENVIRONMENTAL CRIMES SECTION, ENVIRONMENT AND NATURAL RESOURCES DIVISION, THE RECIPIENTS ARE CHARLES DE MONACO, ASSISTANT CHIEF; MARK HARMON, SENIOR ATTORNEY; ERIC NAGLE, TRIAL ATTORNEY; AND ANN BRACK, PARALEGAL SPECIALIST. FROM THE FBI, DONALD STEELE, SPECIAL AGENT, SALT LAKE CITY FIELD OFFICE, AND FROM THE U.S. FISH AND WILDLIFE SERVICE, WALTER E. SOROKA, SENIOR RESIDENT AGENT, ANCHORAGE, ALASKA FIELD OFFICE. MR. DE MONACO, R. HARMON, MR. NAGLE, MS. BRACK, SPECIAL AGENT STEELE, AND AGENT SOROKA . . .

MR. BARR SHAKES MR. DE MONACO'S HAND AND PRESENTS AWARD DEVICE.

MS. O'MEARA COMES FROM HER SEAT ON THE STAGE AND SHAKES MR. DE MONACO'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. DeMONACO THEN MOVES TO HIS FAR RIGHT TO AN X MARKED BY TAPE TO MAKE ROOM FOR THE OTHER AWARD RECIPIENTS AS DEPICTED BELOW.

[LECTERN]
 X X
 DE MONACO AG O'MEARA

MS. O'MEARA SHAKES MR. HARMON'S HAND, MR. BARR SHAKES MR. HARMON'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. HARMON THEN MOVES TO THE RIGHT TO JOIN MR. DeMONACO AS DEPICTED BELOW.

[LECTERN]
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 DE MONACO HARMON AG O'MEARA

MS. O'MEARA SHAKES MR. NAGLE'S HAND, MR. BARR SHAKES MR. NAGLE'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. NAGLE THEN MOVES TO THE RIGHT TO JOIN THE OTHERS AS DEPICTED BELOW.

[LECTERN]
 X X X X X
 DE MONACO HARMON NAGLE AG O'MEARA

MS. O'MEARA SHAKES MS. BRACK'S HAND, MR. BARR SHAKES MS. BRACK'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MS. BRACK AND MS. O'MEARA THEN MOVE TO THE RIGHT TO JOIN THE OTHERS AS DEPICTED BELOW.

[LECTERN]
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 DE MONACO HARMON NAGLE BRACK O'MEARA AG

MR. BARR SHAKES SPECIAL AGENT STEELE'S HAND AND PRESENTS AWARD DEVICE. DIRECTOR SESSIONS COMES FROM HIS SEAT ON THE STAGE AND SHAKES AGENT STEELE'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. AGENT STEELE AND DIRECTOR SESSIONS THEN MOVE TO THE RIGHT TO JOIN THE OTHERS AS DEPICTED BELOW.

[LECTERN]
 X X X X X X X X
 DE MONACO HARMON NAGLE BRACK O'MEARA STEELE SESSIONS AG

MR. BARR SHAKES MR. SOROKA'S HAND AND PRESENTS AWARD DEVICE. DIRECTOR TURNER COMES FROM HIS SEAT ON STAGE AND SHAKES AGENT SOROKA'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN ALL TEN INDIVIDUALS MOVE CLOSE TOGETHER AND FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. TERWILLIGER: THE NEXT AWARD IS PRESENTED TO SALIM S. DOMINGUEZ, SPECIAL AGENT, ANTI-SMUGGLING UNIT, TUCSON, ARIZONA SECTOR, U.S. BORDER PATROL, IMMIGRATION AND NATURALIZATION SERVICE, FOR THE OUTSTANDING SERVICE HE HAS RENDERED IN THE WAR ON DRUGS AND HIS IMPACT ON ORGANIZED NARCOTICS TRAFFICKERS. ALL OF AGENT DOMINGUEZ' INVESTIGATIONS HAVE RESULTED IN CONVICTIONS. SPECIAL AGENT DOMINGUEZ . . .

MR. BARR SHAKES AGENT DOMINGUEZ' HAND AND PRESENTS AWARD DEVICE. MR. MCNARY COMES FROM HIS SEAT ON STAGE AND SHAKES AGENT DOMINGUEZ' HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. TERWILLIGER: THE NEXT AWARD IS PRESENTED TO DONALD F. FERRARONE, COUNTRY ATTACHE, LA PAZ, BOLIVIA COUNTRY OFFICE, DRUG ENFORCEMENT ADMINISTRATION, IN RECOGNITION OF HIS ROLE AS THE DRIVING FORCE BEHIND A SERIES OF HIGHLY SUCCESSFUL OPERATIONS CARRIED OUT BY BOLIVIAN DRUG ENFORCEMENT FORCES AND DEA PERSONNEL WHICH GREATLY REDUCED THE EFFECTIVENESS OF DRUG-TRAFFICKING OPERATIONS IN BOLIVIA. MR. FERRARONE . . .

MR. BARR SHAKES MR. FERRARONE'S HAND AND PRESENTS AWARD DEVICE. MR. BONNER COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. FERRARONE'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. TERWILLIGER: THE NEXT AWARD IS PRESENTED TO DOUGLAS N. FRAZIER, FORMER UNITED STATES ATTORNEY FOR THE DISTRICT OF NEVADA, IN RECOGNITION OF HIS SIGNIFICANT CONTRIBUTIONS AND THE ORGANIZATIONAL AND PROSECUTORIAL SKILLS HE HAS DISPLAYED IN THREE DIFFERENT UNITED STATES ATTORNEYS' OFFICES AND THE EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS. MR. FRAZIER . . .

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11

MR. BARR SHAKES MR. FRAZIER'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. FRAZIER'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. TERWILLIGER: THE NEXT DISTINGUISHED SERVICE AWARD IS PRESENTED TO STEPHEN G. FUERTH, CHIEF, CIVIL TRIAL SECTION, WESTERN REGION, TAX DIVISION, IN RECOGNITION OF HIS 30 YEARS OF OUTSTANDING SERVICE HANDLING MANY OF THE TAX DIVISION'S MOST NETTLESOME TAX CASES, INVOLVING SOME OF THE NATION'S MOST CONTENTIOUS TAXPAYERS. MR. FUERTH WILL IS NOT ABLE TO ATTEND TODAY'S CEREMONY DUE TO A DEATH IN HIS FAMILY. ACCEPTING THE AWARD ON HIS BEHALF IS ROBERT WATKINS, ASSISTANT CHIEF OF THE WESTERN DIVISION'S CIVIL TRIAL SECTION. MR. WATKINS . . .

MR. BARR SHAKES MR. WATKIN'S HAND AND PRESENTS AWARD DEVICE. MR. BRUTON COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. WATKIN'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. TERWILLIGER: THE NEXT DISTINGUISHED SERVICE AWARD IS PRESENTED TO THE GROUP OF FIVE EMPLOYEES OF THE OFFICE OF THE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NEW YORK, FOR THEIR OUTSTANDING CONTRIBUTIONS LEADING TO THE SUCCESSFUL PROSECUTION OF JOHN GOTTI AND THE ADMINISTRATION OF THE GAMBINO FAMILY. THE RECIPIENTS ARE ANDREW J. MALONEY, FORMER UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NEW YORK; AND ASSISTANT UNITED STATES ATTORNEYS JOHN GLEESON, LAURA A. WARD, PATRICK J. COTTER, AND JAMES ORENSTEIN. UNFORTUNATELY, MR. GLEESON CANNOT ATTEND TODAY DUE TO A COURT COMMITMENT; ACCEPTING THE AWARD FOR HIM IS HIS WIFE SUSAN GLEESON. MR. MALONEY, MRS. GLEESON, MS. WARD, MR. COTTER, AND MR. ORENSTEIN . . .

MR. BARR SHAKES MR. MALONEY'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. MALONEY'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. MALONEY THEN MOVES TO HIS FAR RIGHT TO AN X MARKED BY TAPE TO MAKE ROOM FOR THE OTHER AWARD RECIPIENTS AS DEPICTED BELOW.

				[LECTERN]
X			X	X
MALONEY			AG	MOSCATO

MR. MOSCATO SHAKES MRS. GLEESON'S HAND, MR. BARR SHAKES MRS. GLEESON'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MRS. GLEESON THEN MOVES TO THE RIGHT TO JOIN MR. MALONEY AS DEPICTED BELOW.

				[LECTERN]
X	X		X	X
MALONEY	GLEESON		AG	MOSCATO

MR. MOSCATO SHAKES MS. WARD'S HAND, MR. BARR SHAKES MS. WARD'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MS. WARD THEN MOVES TO THE RIGHT TO JOIN THE OTHERS AS DEPICTED BELOW.

				[LECTERN]
X	X	X	X	X
MALONEY	GLEESON	WARD	AG	MOSCATO

MR. MOSCATO SHAKES MR. COTTER'S HAND, MR. BARR SHAKES MR. COTTER'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. COTTER THEN MOVES TO THE RIGHT TO JOIN THE OTHERS AS DEPICTED BELOW.

					[LECTERN]
X	X	X	X	X	X
MALONEY	GLEESON	WARD	COTTER	AG	MOSCATO

MR. MOSCATO SHAKES MR. ORENSTEIN'S HAND. MR. BARR SHAKES MR. ORENSTEIN'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN ALL SEVEN INDIVIDUALS MOVE CLOSE TOGETHER AND FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. TERWILLIGER: THE NEXT AWARD IS PRESENTED TO HELENE M. GOLDBERG, DIRECTOR, TORTS BRANCH, CIVIL DIVISION, IN RECOGNITION OF HER EXCEPTIONAL WORK IN IMPLEMENTING AND ADMINISTERING THE RADIATION EXPOSURE COMPENSATION PROGRAM, AND DEVELOPING A HIGHLY

EFFECTIVE AND INNOVATIVE APPROACH TO LITIGATION ARISING UNDER THE VACCINE INJURY COMPENSATION ACT. MS. GOLDBERG . . .

MR. BARR SHAKES MS. GOLDBERG'S HAND AND PRESENTS AWARD DEVICE. MR. GERSON COMES FROM HIS SEAT ON THE STAGE AND SHAKES MS. GOLDBERG'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. TERWILLIGER: NOW, IT IS MY PLEASURE TO INTRODUCE THE ASSOCIATE ATTORNEY GENERAL, WAYNE A. BUDD, WHO WILL PRESENT THE REMAINING DISTINGUISHED SERVICE AWARDS. MR. BUDD . . .

MR. TERWILLIGER RETURNS TO HIS SEAT ON THE STAGE. MR. BUDD GOES TO THE LECTERN

MR. BUDD: THE NEXT AWARD RECIPIENT IS STEPHEN I. GOLDRING, ASSISTANT UNITED STATES TRUSTEE, WESTERN DISTRICT OF PENNSYLVANIA, UNITED STATES TRUSTEE PROGRAM. THE AWARD IS PRESENTED FOR HIS SELFLESS DEVOTION TO THE TRUSTEE PROGRAM, FOR BRINGING THE PROGRAM'S WESTERN DISTRICT OF PENNSYLVANIA AND NEW JERSEY OFFICES UP TO DEPARTMENTAL STANDARDS, AND FOR DRAFTING THE FIRST INTERNAL EVALUATION MANUAL FOR THE PROGRAM. MR. GOLDRING .

. . .

MR. BUDD REMAINS BEHIND THE LECTERN. MR. BARR SHAKES MR. GOLDRING'S HAND AND PRESENTS THE AWARD DEVICE. DIRECTOR LOGAN COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. GOLDRING'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: THE NEXT AWARD IS PRESENTED TO NANCY C. HILL, CHIEF OF THE CRIMINAL DIVISION OF THE OFFICE OF THE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA. THE AWARD RECOGNIZES THE EXTRAORDINARY ABILITY MS. HILL HAS SHOWN AND THE PROSECUTORY INITIATIVES SHE HAS DEVELOPED IN THE AREAS OF PUBLIC CORRUPTION,

CIVIL RIGHTS OFFENSES, ENVIRONMENTAL CRIMES, CONTROLLED SUBSTANCE ABUSE, AND VIOLENT CRIMES. MS. HILL . . .

MR. BARR SHAKES MS. HILL'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON THE STAGE AND SHAKES MS. HILL'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: THE NEXT AWARD IS PRESENTED TO EDWIN S. KNEEDLER, ASSISTANT TO THE SOLICITOR GENERAL, OFFICE OF THE SOLICITOR GENERAL, FOR HIS DISTINGUISHED RECORD OF SERVICE AND THE EXCEPTIONAL JOB HE HAS DONE IN ANALYZING COMPLEX LEGAL MATERIALS AND ISSUES, AND IN CRAFTING THE PRESENTATION OF THESE CASES BEFORE THE SUPREME COURT. MR. KNEEDLER . . .

MR. BARR SHAKES MR. KNEEDLER'S HAND AND PRESENTS AWARD DEVICE. MR. ROBERTS COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. KNEEDLER'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: THE NEXT DISTINGUISHED SERVICE AWARD IS PRESENTED TO ENRIQUE MERCADAL, SPECIAL AGENT IN THE MIAMI FIELD OFFICE, FEDERAL BUREAU OF INVESTIGATION. MR. MERCADAL IS RECOGNIZED FOR HIS COURAGEOUS EFFORTS TO ELIMINATE INTERNATIONAL DRUG-TRAFFICKING ORGANIZATIONS OPERATING IN THE UNITED STATES BY SERVING AS A PRIMARY UNDERCOVER AGENT IN OPERATION COLABORO, DURING WHICH HE INVESTIGATED 11 DISTINCT HIGH-LEVEL COLOMBIAN DRUG-TRAFFICKING OPERATIONS. SPECIAL AGENT MERCADAL . . .

MR. BARR SHAKES AGENT MERCADAL'S HAND AND PRESENTS AWARD DEVICE. DIRECTOR SESSIONS COMES FROM HIS SEAT ON THE STAGE AND SHAKES AGENT MERCADAL'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: THE NEXT AWARD IS PRESENTED TO JOSE "TONY" PEREZ,

CIVIL RIGHTS OFFENSES, ENVIRONMENTAL CRIMES, CONTROLLED SUBSTANCE ABUSE, AND VIOLENT CRIMES. MS. HILL . . .

MR. BARR SHAKES MS. HILL'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON THE STAGE AND SHAKES MS. HILL'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: THE NEXT AWARD IS PRESENTED TO EDWIN S. KNEEDLER, ASSISTANT TO THE SOLICITOR GENERAL, OFFICE OF THE SOLICITOR GENERAL, FOR HIS DISTINGUISHED RECORD OF SERVICE AND THE EXCEPTIONAL JOB HE HAS DONE IN ANALYZING COMPLEX LEGAL MATERIALS AND ISSUES, AND IN CRAFTING THE PRESENTATION OF THESE CASES BEFORE THE SUPREME COURT. MR. KNEEDLER . . .

MR. BARR SHAKES MR. KNEEDLER'S HAND AND PRESENTS AWARD DEVICE. MR. STARR COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. KNEEDLER'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: THE NEXT DISTINGUISHED SERVICE AWARD IS PRESENTED TO ENRIQUE MERCADAL, SPECIAL AGENT IN THE MIAMI FIELD OFFICE, FEDERAL BUREAU OF INVESTIGATION. MR. MERCADAL IS RECOGNIZED FOR HIS COURAGEOUS EFFORTS TO ELIMINATE INTERNATIONAL DRUG-TRAFFICKING ORGANIZATIONS OPERATING IN THE UNITED STATES BY SERVING AS A PRIMARY UNDERCOVER AGENT IN OPERATION COLABORO, DURING WHICH HE INVESTIGATED 11 DISTINCT HIGH-LEVEL COLOMBIAN DRUG-TRAFFICKING OPERATIONS. SPECIAL AGENT MERCADAL . . .

MR. BARR SHAKES AGENT MERCADAL'S HAND AND PRESENTS AWARD DEVICE. DIRECTOR SESSIONS COMES FROM HIS SEAT ON THE STAGE AND SHAKES AGENT MERCADAL'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: THE NEXT AWARD IS PRESENTED TO JOSE "TONY" PEREZ,

CHIEF INSPECTOR, ENFORCEMENT OPERATIONS DIVISION, UNITED STATES MARSHALS SERVICE. THIS AWARD IS MADE IN RECOGNITION OF THE CONSUMMATE SKILL AND LEADERSHIP ABILITY HE DISPLAYED IN CARRYING OUT OPERATIONS "SUNRISE" AND "GUNSMOKE." THESE OPERATIONS RESULTED IN THE ARREST OF MORE THAN 4,800 FUGITIVES -- 371 OF WHOM WERE WANTED FOR HOMICIDE -- AND THE SEIZURE OF 729 FIREARMS. CHIEF INSPECTOR PEREZ . . .

MR. BARR SHAKES INSPECTOR PEREZ' HAND AND PRESENTS AWARD DEVICE. DIRECTOR HUDSON COMES FROM HIS SEAT ON THE STAGE AND SHAKES INSPECTOR PEREZ' HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: THE NEXT AWARD RECIPIENT IS THOMAS W. RAFFANELLO, SUPERVISORY CRIMINAL INVESTIGATOR, MIAMI FIELD DIVISION, DRUG ENFORCEMENT ADMINISTRATION. THE AWARD IS PRESENTED TO MR. RAFFANELLO IN RECOGNITION OF THE OUTSTANDING LEADERSHIP AND PROFESSIONALISM HE DISPLAYED WHILE HEADING THE INVESTIGATIVE TEAM THAT DEVELOPED THE EVIDENCE AND WITNESSES IN A CASE THAT WAS UNPRECEDENTED IN THE HISTORY OF UNITED STATES LAW ENFORCEMENT -- THE PROSECUTION OF GENERAL MANUEL ANTONIO NORIEGA. MR. RAFFANELLO . . .

MR. BARR SHAKES MR. RAFFANELLO'S HAND AND PRESENTS AWARD DEVICE. MR. BONNER COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. RAFFANELLO'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: THE NEXT AWARD IS PRESENTED TO A GROUP OF SIX DEPARTMENT EMPLOYEES FOR THEIR MOMENTOUS ACHIEVEMENTS IN THE TRIAL AND CONVICTION OF GENERAL MANUEL ANTONIO NORIEGA. FROM THE

OFFICE OF THE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF FLORIDA, THE RECIPIENTS ARE ASSISTANT UNITED STATES ATTORNEYS MICHAEL P. SULLIVAN, MYLES MALMAN, GUY LEWIS, AND JAMES G. MCADAMS, III; FROM THE OFFICE OF THE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF NEW YORK, ASSISTANT UNITED STATES ATTORNEY MICHAEL OLMSTED; AND FROM THE JUSTICE MANAGEMENT DIVISION, JOAN KENDRALL, COURT SECURITY SPECIALIST, SECURITY AND EMERGENCY PLANNING STAFF. MR. SULLIVAN, MR. MALMAN, MR. LEWIS, MR. MCADAMS, MR. OLMSTED, AND MS. KENDRALL . . .

MR. BARR SHAKES MR. SULLIVAN'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. SULLIVAN'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. SULLIVAN THEN MOVES TO HIS FAR RIGHT TO AN X MARKED BY TAPE TO MAKE ROOM FOR THE OTHER AWARD RECIPIENTS AS DEPICTED BELOW.

				[LECTERN]
	X		X	X
SULLIVAN			AG	MOSCATO

MR. MOSCATO SHAKES MR. MALMAN'S HAND, MR. BARR SHAKES MR. MALMAN'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. MALMAN THEN MOVES TO THE RIGHT TO JOIN MR. SULLIVAN AS DEPICTED BELOW.

				[LECTERN]
X		X	X	X
SULLIVAN	MALMAN		AG	MOSCATO

MR. MOSCATO SHAKES MR. LEWIS' HAND, MR. BARR SHAKES MR. LEWIS' HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. LEWIS THEN MOVES TO THE RIGHT TO JOIN THE OTHERS AS DEPICTED BELOW.

				[LECTERN]
X	X	X	X	X
SULLIVAN	MALMAN	LEWIS	AG	MOSCATO

NR. MOSCATO SHAKES MR. MCADAMS' HAND, MR. BARR SHAKES MR. MCADAMS' HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. MCADAMS THEN MOVES TO THE RIGHT TO JOIN THE OTHERS AS DEPICTED BELOW.

						[LECTERN]
X	X	X	X			X X
SULLIVAN	MALMAN	LEWIS	MCADAMS			AG MOSCATO

MR. MOSCATO SHAKES MR. OLMSTED'S MR. BARR SHAKES MR. OLMSTED'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. OLMSTED AND MR. MOSCATO THEN MOVE TO THE RIGHT TO JOIN THE OTHERS AS DEPICTED BELOW.

							[LECTERN]
X	X	X	X	X	X		X
SULLIVAN	MALMAN	LEWIS	MCADAMS	OLMSTED	MOSCATO		AG

MR. BARR SHAKES MS. KENDRALL'S HAND AND PRESENTS AWARD DEVICE. MR. FLICKINGER COMES FROM HIS SEAT ON STAGE AND SHAKES MS. KENDRALL'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN ALL NINE INDIVIDUALS MOVE CLOSE TOGETHER AND FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BUDD: NOW, IT IS MY PLEASURE TO INTRODUCE THE ADMINISTRATOR OF THE DRUG ENFORCEMENT ADMINISTRATION, ROBERT C. BONNER, WHO WILL PRESENT THE ATTORNEY GENERAL'S AWARD FOR EXCELLENCE IN MANAGEMENT. MR. BONNER . . .

MR. BUDD RETURNS TO HIS SEAT ON THE STAGE. MR. BONNER GOES TO THE LECTERN

MR. BONNER: IN 1987, THE ATTORNEY GENERAL CREATED THE AWARD FOR EXCELLENCE IN MANAGEMENT TO HONOR SUPERVISORY AND MANAGEMENT OFFICIALS FOR OUTSTANDING ACHIEVEMENTS WHICH HAVE REDUCED COSTS OR SIGNIFICANTLY IMPROVED THE OPERATIONS OR PRODUCTIVITY OF THE DEPARTMENT. THIS YEAR, TWO AWARDS ARE BEING PRESENTED. THE FIRST AWARD IS PRESENTED TO KATHY HAWK, FORMERLY THE ASSISTANT DIRECTOR, PROGRAM REVIEW DIVISION, FEDERAL BUREAU OF PRISONS, FOR

HER LEADERSHIP IN ESTABLISHING A SUCCESSFUL MANAGEMENT CONTROL PROGRAM TO DETECT AND ELIMINATE WASTE, FRAUD, ABUSE, AND MISMANAGEMENT IN THE BUREAU OF PRISONS. I AM PLEASED TO ANNOUNCE THAT LITTLE MORE THAN A WEEK AGO, ATTORNEY GENERAL BARR NAMED HER DIRECTOR OF THE BUREAU OF PRISONS. DR. HAWK . . .

MR. BONNER REMAINS BEHIND THE LECTERN. MR. BARR SHAKES DR. HAWK'S HAND AND PRESENTS AWARD DEVICE. ASSOCIATE ATTORNEY GENERAL BUDD COMES FROM HIS SEAT ON THE STAGE AND SHAKES DR. HAWK'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BONNER; THE SECOND ATTORNEY GENERAL'S AWARD FOR EXCELLENCE IN MANAGEMENT IS PRESENTED TO JOHN E. LOGAN, DIRECTOR, UNITED STATES TRUSTEE PROGRAM, FOR THE EXTRAORDINARY SUCCESS HE HAS ACHIEVED IN STRENGTHENING THE PROGRAM AND MAKING IT A HIGHLY EFFECTIVE REGULATOR OF THE BANKRUPTCY PROCESS. DIRECTOR LOGAN .

. . .
MR. BARR SHAKES MR. LOGAN'S HAND AND PRESENTS AWARD DEVICE. DEPUTY ATTORNEY GENERAL TERWILLIGER COMES FROM HIS SEAT ON STAGE AND SHAKES MR. LOGAN'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. BONNER: IT IS NOW MY PLEASURE TO INTRODUCE THE ASSISTANT ATTORNEY GENERAL FOR THE CRIMINAL DIVISION, ROBERT S. MUELLER, III, WHO WILL PRESENT THE ATTORNEY GENERAL'S AWARDS FOR EXCELLENCE IN LAW ENFORCEMENT. MR. MUELLER . . .

MR. BONNER RETURNS TO HIS SEAT ON THE STAGE. MR. MUELLER GOES TO THE LECTERN.

MR. MUELLER: THE ATTORNEY GENERAL'S AWARD FOR EXCELLENCE IN LAW ENFORCEMENT RECOGNIZES OUTSTANDING PROFESSIONAL ACHIEVEMENT BY A LAW ENFORCEMENT OFFICER OF THE DEPARTMENT. THIS YEAR, THREE AWARDS ARE BEING PRESENTED IN THIS CATEGORY. THE FIRST IS PRESENTED TO ROBERT F. DE BELLIS, SPECIAL AGENT, NEWARK FIELD OFFICE, FEDERAL BUREAU OF INVESTIGATION, IN RECOGNITION OF HIS MORE THAN 20 YEARS OF OUTSTANDING SERVICE WITH THE NEWARK DIVISION'S INTERSTATE THEFT SQUAD. SPECIAL AGENT DE BELLIS

. . .

MR. MUELLER REMAINS BEHIND THE LECTERN. MR. BARR SHAKES MR. DE BELLIS' HAND AND PRESENTS AWARD DEVICE. DIRECTOR SESSIONS COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. DE BELLIS' HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. MUELLER: THE SECOND AWARD IS PRESENTED TO WILLIAM F. MOCKLER, JR., ASSISTANT SPECIAL AGENT IN CHARGE, NEW YORK FIELD DIVISION, DRUG ENFORCEMENT ADMINISTRATION, FOR HIS EXCEPTIONAL LEADERSHIP IN THE COMPLEX, TEN-YEAR INVESTIGATION OF THE COCAINE-TRAFFICKING ACTIVITIES OF CALI CARTEL KINGPIN HELMER HERREA. IN LARGE PART, DEA'S "KINGPIN" STRATEGY HAS EVOLVED FROM THE INNOVATIVE TECHNIQUES USED IN THIS INVESTIGATION. AGENT MOCKLER

. . .

MR. BARR SHAKES MR. MOCKLER'S HAND AND PRESENTS AWARD DEVICE. MR. BONNER COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. MOCKLER'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. MUELLER: THE THIRD AWARD IS PRESENTED TO WANDA H. PHILLIPS, AN INSPECTOR WITH THE UNITED STATES MARSHALS SERVICE COURT SECURITY DIVISION IN ATLANTA, GEORGIA. THE AWARD IS PRESENTED TO

INSPECTOR PHILLIPS IN RECOGNITION OF THE EXEMPLARY PROFESSIONALISM SHE HAS DISPLAYED IN PROVIDING COURT SECURITY IN INTERNATIONALLY SENSITIVE TRIALS REQUIRING THE HIGHEST LEVEL OF SECURITY. INSPECTOR PHILLIPS . . .

MR. BARR SHAKES INSPECTOR PHILLIPS' HAND AND PRESENTS AWARD DEVICE. DIRECTOR HUDSON COMES FROM HIS SEAT ON THE STAGE AND SHAKES INSPECTOR PHILLIPS' HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. MUELLER: IT IS NOW MY PLEASURE TO INTRODUCE THE ASSISTANT ATTORNEY GENERAL OF THE CIVIL RIGHTS DIVISION, JOHN R. DUNNE, WHO WILL PRESENT THE ATTORNEY GENERAL'S AWARDS FOR EQUAL EMPLOYMENT OPPORTUNITY. MR. DUNNE . . .

MR. MUELLER RETURNS TO HIS SEAT ON THE STAGE. MR. DUNNE GOES TO THE LECTERN.

MR. DUNNE: THE DEPARTMENT OF JUSTICE AND THE ATTORNEY GENERAL ARE FIRMLY COMMITTED TO THE PRINCIPLES OF EQUAL EMPLOYMENT OPPORTUNITY. THE ATTORNEY GENERAL ESTABLISHED THE EQUAL OPPORTUNITY AWARDS TO RECOGNIZE THOSE MANAGERS AND EMPLOYEES WHO MAKE EXTRA EFFORTS TO EFFECT SIGNIFICANT PROGRESS TOWARD THE DEPARTMENT'S OBJECTIVES IN EQUAL EMPLOYMENT OPPORTUNITY, UPWARD MOBILITY, AND SERVICE TO THE DEPARTMENT'S DISABLED EMPLOYEES. THIS YEAR, THE ATTORNEY GENERAL'S AWARD FOR EQUAL EMPLOYMENT OPPORTUNITY IS PRESENTED TO BRIAN A. JACKSON, ASSISTANT UNITED STATES ATTORNEY, OFFICE OF THE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF LOUISIANA, IN RECOGNITION OF HIS OUTSTANDING EFFORTS IN RECRUITING MINORITIES, PROMOTING UNDERSTANDING, AND

CREATING PROGRAMS WHICH CELEBRATE THE ACHIEVEMENTS OF MINORITIES;
HIS EFFORTS HAVE ALLOWED OTHERS TO BETTER UNDERSTAND THE COMMON
HUMANITY WHICH WE ALL SHARE. MR. JACKSON . . .

MR. DUNNE REMAINS BEHIND THE LECTERN. MR. BARR SHAKES MR.
JACKSON'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM
HIS SEAT ON THE STAGE AND SHAKES MR. JACKSON'S HAND. ALL THREE
FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. DUNNE: THE ATTORNEY GENERAL'S AWARD FOR UPWARD MOBILITY IS
PRESENTED TO CAROL J. CLARK, ASSISTANT REGIONAL ADMINISTRATOR,
INFORMATION RESOURCES MANAGEMENT, NORTHERN REGIONAL OFFICE,
IMMIGRATION AND NATURALIZATION SERVICE, FOR HER OUTSTANDING
DEDICATION TO THE PRINCIPLES OF UPWARD MOBILITY BY PROVIDING
OPPORTUNITIES FOR PROFESSIONAL DEVELOPMENT AND ADVANCEMENT TO
EMPLOYEES WITH LIMITED CAREER OPPORTUNITIES. MS. CLARK . . .

MR. BARR SHAKES MS. CLARK'S HAND AND PRESENTS AWARD DEVICE. MR.
MCNARY COMES FROM HIS SEAT ON THE STAGE AND SHAKES
MS. CLARK'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. DUNNE: THE ATTORNEY GENERAL'S AWARD FOR OUTSTANDING SERVICE
TO DEPARTMENT OF JUSTICE DISABLED EMPLOYEES IS PRESENTED TO TWO
EMPLOYEES OF THE FEDERAL BUREAU OF INVESTIGATION'S INFORMATION
MANAGEMENT DIVISION FOR THEIR OUTSTANDING WORK IN SECURING,
TESTING, AND INSTALLING A COMPUTER-BASED TYPING INSTRUCTION
PROGRAM FOR THE VISUALLY IMPAIRED. THE RECIPIENTS ARE SHIRLEY E.
BAILEY, TRAINING ADMINISTRATOR, AND DENNIS F. KALINSKI, COMPUTER
SPECIALIST. MS. BAILEY AND MR. KALINSKI . . .

MR. BARR SHAKES MS. BAILEY'S HAND AND PRESENTS AWARD DEVICE. DIRECTOR SESSIONS COMES FROM HIS SEAT ON THE STAGE AND SHAKES MS. BAILEY'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MS. BAILEY THEN MOVES TO HER RIGHT TO MAKE ROOM FOR MR. KALINSKI AS DEPICTED BELOW.

		[LECTERN]	
X		X	X
BAILEY		AG	SESSIONS

MR. SESSIONS SHAKES MR. KALINSKI'S HAND. MR. BARR SHAKES MR. KALINSKI'S HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN ALL FOUR MOVE CLOSE TOGETHER FOR A GROUP PHOTOGRAPH.

MR. DUNNE: IT IS NOW MY PLEASURE TO PRESENT THE ACTING ASSISTANT ATTORNEY GENERAL OF THE ENVIRONMENT AND NATURAL RESOURCES DIVISION, VICKI A. O'MEARA, WHO WILL ANNOUNCE THE RECIPIENTS OF THE ATTORNEY GENERAL'S AWARDS FOR EXCELLENCE IN LEGAL SUPPORT.
MS. O'MEARA . . .

MR. DUNNE RETURNS TO HIS SEAT ON STAGE. MS. O'MEARA GOES TO THE LECTERN.

MS. O'MEARA: THE ATTORNEY GENERAL'S AWARDS FOR EXCELLENCE IN LEGAL SUPPORT RECOGNIZE OUTSTANDING ACHIEVEMENTS IN THE FIELD OF SUPPORT TO THE DEPARTMENT'S ATTORNEYS -- SUPPORT WORK WHICH IS CRITICAL TO OUR LITIGATIVE PROGRAMS. AWARDS ARE GRANTED IN TWO CATEGORIES EACH YEAR. THE FIRST CATEGORY RECOGNIZES PARALEGAL SUPPORT; THE SECOND RECOGNIZES LEGAL SECRETARIAL SUPPORT. THIS YEAR'S ATTORNEY GENERAL'S AWARD FOR EXCELLENCE IN LEGAL SUPPORT, PARALEGAL CATEGORY, IS PRESENTED TO ANASTASIA CLUBB, PARALEGAL SPECIALIST, MAJOR FRAUDS SECTION, OFFICE OF THE UNITED STATES ATTORNEY FOR THE CENTRAL DISTRICT OF CALIFORNIA, FOR THE SUPERB LEGAL SUPPORT SHE PROVIDED IN ORGANIZING AND INDEXING MASSIVE

AMOUNTS OF INFORMATION IN THE LINCOLN SAVINGS AND LOAN
INVESTIGATION AND PROSECUTION. MS. CLUBB . . .

MS. O'MEARA REMAINS BEHIND THE LECTERN. MR. BARR SHAKES
MS. CLUBB'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES
FROM HIS SEAT ON THE STAGE AND SHAKES MS. CLUBB'S HAND. ALL
THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MRS. O'MEARA: THE ATTORNEY GENERAL'S AWARD FOR EXCELLENCE IN
LEGAL SUPPORT, SECRETARIAL CATEGORY, IS PRESENTED TO PATRICIA
ANDERSON, LEGAL CLERK, OFFICE OF THE UNITED STATES TRUSTEE,
MIDDLE DISTRICT OF FLORIDA, FOR HER CONSISTENTLY EXCEPTIONAL
PERFORMANCE AND THE OUTSTANDING ORGANIZATIONAL SKILL SHE
DISPLAYED IN PROVIDING SUPPORT WHICH ENABLED THE TAMPA OFFICE TO
OVERCOME SERIOUS START-UP AND WORKLOAD PROBLEMS.

MS. ANDERSON . . .

MR. BARR SHAKES MS. ANDERSON'S HAND AND PRESENTS AWARD DEVICE.
DIRECTOR LOGAN COMES FROM HIS SEAT ON THE STAGE AND SHAKES MS.
ANDERSON'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MS. O'MEARA: IT IS NOW MY PLEASURE TO INTRODUCE THE INSPECTOR
GENERAL OF THE DEPARTMENT OF JUSTICE, RICHARD J. HANKINSON, WHO
WILL PRESENT THE ATTORNEY GENERAL'S AWARDS FOR EXCELLENCE IN
ADMINISTRATIVE SUPPORT. MR. HANKINSON . . .

MS. O'MEARA RETURNS TO HER SEAT ON THE STAGE. MR. HANKINSON GOES
TO THE LECTERN.

MR. HANKINSON: THE ATTORNEY GENERAL'S AWARD FOR EXCELLENCE IN
ADMINISTRATIVE SUPPORT RECOGNIZES OUTSTANDING ADMINISTRATIVE OR

MANAGERIAL ACHIEVEMENTS. AWARDS ARE GIVEN IN TWO CATEGORIES. THE FIRST IS ADMINISTRATIVE SUPPORT IN AREAS SUCH AS PERSONNEL, INFORMATION SYSTEMS, AND BUDGET. THE SECOND CATEGORY RECOGNIZES GENERAL, NON-LEGAL SECRETARIAL SUPPORT. THIS YEAR, THE ATTORNEY GENERAL'S AWARD FOR EXCELLENCE IN ADMINISTRATIVE SUPPORT, ADMINISTRATIVE CATEGORY, IS PRESENTED TO WILLIE M. HENRY, ADMINISTRATIVE SUPPORT SPECIALIST, NEW YORK DIVISION, DRUG ENFORCEMENT ADMINISTRATION, FOR THE EXCEPTIONAL SKILL AND DEDICATION SHE DISPLAYED IN OVERCOMING THE DAILY DIFFICULTIES AND OBSTACLES INVOLVED IN MANAGING THE CONSTRUCTION OF THE NEW YORK FIELD DIVISION'S NEW SITE. MS. HENRY . . .

MR. HANKINSON REMAINS BEHIND THE LECTERN. MR. BARR SHAKES MS. HENRY'S HAND AND PRESENTS AWARD DEVICE. MR. BONNER COMES FROM HIS SEAT ON THE STAGE AND SHAKES MS. HENRY'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. HANKINSON: THE ATTORNEY GENERAL'S AWARD FOR EXCELLENCE IN ADMINISTRATIVE SUPPORT IN THE SECRETARIAL CATEGORY IS PRESENTED TO MARY GRABOWSKI, SECRETARY, FEDERAL CORRECTIONAL INSTITUTION, OTISVILLE, NEW YORK, FEDERAL BUREAU OF PRISONS, FOR THE OUTSTANDING SERVICE SHE HAS RENDERED AS THE WARDEN'S SECRETARY AT OTISVILLE SINCE 1983. DURING THAT PERIOD, SHE HAS SERVED FOUR WARDENS IN A HIGHLY DILIGENT AND PROFESSIONAL MANNER. MS. GRABOWSKI . . .

MR. BARR SHAKES MS. GRABOWSKI'S HAND AND PRESENTS AWARD DEVICE. DR. HAWK COMES FROM HER SEAT ON THE STAGE AND SHAKES MS. GRABOWSKI'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. HANKINSON: IT IS NOW MY PLEASURE TO INTRODUCE STUART M. GERSON, ASSISTANT ATTORNEY GENERAL OF THE CIVIL DIVISION, WHO WILL ANNOUNCE THE RECIPIENTS OF THIS YEAR'S JOHN MARSHALL AWARDS.
MR. GERSON . . .

MR. HANKINSON RETURNS TO HIS SEAT ON THE STAGE. MR. GERSON GOES TO THE LECTERN.

MR. GERSON: THE JOHN MARSHALL AWARD IS NAMED FOR THE FOURTH CHIEF JUSTICE OF THE UNITED STATES AND IS INTENDED TO RECOGNIZE OUTSTANDING PROFESSIONAL ACHIEVEMENT BY ATTORNEYS OF THE DEPARTMENT OF JUSTICE IN SEVEN CATEGORIES: THREE INVOLVING LITIGATION; ONE FOR THE HANDLING OF APPEALS; ONE FOR PROVIDING LEGAL ADVICE; ONE FOR THE PREPARATION OR HANDLING OF LEGISLATION; AND ONE FOR ASSET FORFEITURE. AN EIGHTH CATEGORY, INTERAGENCY COOPERATION IN SUPPORT OF LITIGATION, RECOGNIZES AN ATTORNEY OR GROUP OF ATTORNEYS FROM CLIENT AGENCIES WHO HAVE RENDERED EXCEPTIONALLY HELPFUL ASSISTANCE TO THE DEPARTMENT IN HIGH-VISIBILITY LITIGATION. WE WILL BEGIN TODAY WITH THE PRESENTATION OF THE JOHN MARSHALL AWARD FOR INTERAGENCY COOPERATION IN SUPPORT OF LITIGATION. THE AWARD, THIS YEAR, IS PRESENTED TO TWO ATTORNEYS OF THE DEPARTMENT OF THE DEPARTMENT OF TRANSPORTATION'S FEDERAL AVIATION ADMINISTRATION. THEY ARE RICHARD DANFORTH, ASSISTANT CHIEF COUNSEL FOR AIRPORTS AND ENVIRONMENT, AND DAPHNE FULLER, SENIOR COUNSEL FOR AIRPORTS AND ENVIRONMENT, FOR THE INVALUABLE ASSISTANCE THEY HAVE PROVIDED THE ENVIRONMENT AND NATURAL RESOURCES DIVISION. THEY HAVE HELPED THE UNITED STATES

ENJOY A SAFER, MORE EFFICIENT AIR TRANSPORTATION SYSTEM WHICH COMPLIES WITH GOVERNING ENVIRONMENTAL REGULATIONS. MR. DANFORTH AND MS. FULLER . . .

MR. GERSON REMAINS BEHIND THE LECTERN. MR. BARR SHAKES MR. DANFORTH'S HAND AND PRESENTS AWARD DEVICE. GENERAL RICHARDS AND MS. O'MEARA COME FROM THEIR SEATS ON THE STAGE AND SHAKES MR. DANFORTH'S HAND. ALL FOUR FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. DANFORTH MOVES OFF TO THE RIGHT TO MAKE ROOM FOR MS. FULLER.

GENERAL RICHARDS AND MS. O'MEARA SHAKE MS. FULLER'S HAND. MR. BARR SHAKES MS. FULLER'S HAND AND PRESENTS AWARD DEVICE. ALL FOUR FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN ALL FIVE MOVE CLOSE TOGETHER AND FOR A GROUP PHOTOGRAPH.

MR. GERSON: THE RECIPIENT OF THE JOHN MARSHALL AWARD FOR PROVIDING LEGAL ADVICE IS MAUREEN H. KILLION, ASSOCIATE DIRECTOR, OFFICE OF ENFORCEMENT OPERATIONS OF THE CRIMINAL DIVISION. MS. KILLION IS BEING RECOGNIZED FOR HER OUTSTANDING LEGAL EXPERTISE AND ASSISTANCE TO FEDERAL PROSECUTORS IN CASES INVOLVING ELECTRONIC SURVEILLANCE. MS. KILLION . . .

MR. BARR SHAKES MS. KILLION'S HAND AND PRESENTS AWARD. MR. MUELLER COMES FROM HIS SEAT ON STAGE AND SHAKES MS. KILLION'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. GERSON: THE JOHN MARSHALL AWARD FOR THE HANDLING OF APPEALS IS PRESENTED TO LINDA COLLINS HERTZ, ASSISTANT UNITED STATES ATTORNEY AND CHIEF OF THE APPELLATE DIVISION OF THE OFFICE OF THE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF FLORIDA. THE AWARD RECOGNIZES HER EXCEPTIONAL INITIATIVE, INGENUITY, AND SKILL IN BRIEFING AND ARGUING MAJOR APPELLATE CASES INVOLVING HIGHLY

SENSITIVE ISSUES OF GREAT IMPORTANCE TO THE ADMINISTRATION OF JUSTICE AND LAW ENFORCEMENT. MS. HERTZ . . .

MR. BARR SHAKES MS. HERTZ'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON THE STAGE AND SHAKES MS. HERTZ'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. GERSON: THE JOHN MARSHALL AWARD FOR THE PREPARATION OR HANDLING OF LEGISLATION IS PRESENTED TO NEIL E. ROBERTS, CHIEF, LEGAL POLICY SECTION, ANTITRUST DIVISION, FOR HIS EXEMPLARY LEGISLATIVE EFFORT OVER THE PAST 16 YEARS, DURING WHICH HIS CONTINUING EFFORTS IN PREPARING AND HANDLING LEGISLATION HAVE HAD A SIGNIFICANT IMPACT ON THE ANTITRUST LAWS SPECIFICALLY AND ON ANTITRUST ENFORCEMENT POLICY GENERALLY. MR. ROBERTS . . .

MR. BARR SHAKES MR. ROBERTS' HAND AND PRESENTS AWARD DEVICE. MR. JAMES COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. ROBERTS' HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. GERSON: THIS YEAR, TWO JOHN MARSHALL AWARDS FOR TRIAL OF LITIGATION WILL BE PRESENTED. THE FIRST IS A GROUP AWARD WHICH IS PRESENTED TO THREE EMPLOYEES FOR THEIR OUTSTANDING WORK AS CO-COUNSELS AND INVESTIGATORS IN THE TRIAL OF UNITED STATES V. FAULKNER, ET AL. -- AN EXTREMELY SUCCESSFUL SIX-YEAR INVESTIGATION AND PROSECUTION INVOLVING THE FAILURES OF FIVE SAVINGS AND LOAN INSTITUTIONS WITH LOSSES OF MORE THAN \$1 BILLION. FROM THE CRIMINAL DIVISION, JOSHUA R. HOCHBERG, SENIOR LITIGATION COUNSEL, FRAUD SECTION; AND FROM THE OFFICE OF THE UNITED STATES ATTORNEY FOR THE NORTHERN DISTRICT OF TEXAS, ASSISTANT UNITED STATES ATTORNEYS, TERENCE J. HART AND JOSEPH M. REVESZ. MR. HOCHBERG, MR. HART, AND MR. REVESZ . . .

MR. BARR SHAKES MR. HOCHBERG'S HAND AND PRESENTS AWARD DEVICE. MR. MUELLER COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. HOCHBERG'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. HOCHBERG AND MR. MUELLER THEN MOVE TO THEIR RIGHT TO MAKE ROOM FOR THE OTHER AWARD RECIPIENTS AS DEPICTED BELOW.

			[LECTERN]
X	X		X
HOCHBERG	MUELLER		AG

MR. BARR SHAKES MR. HART'S HAND AND PRESENTS AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON STAGE AND SHAKES MR. HART'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. MOSCATO REMAINS AT THE FRONT OF THE LECTERN AND MR. HART JOINS THE OTHERS AS DEPICTED BELOW.

				[LECTERN]
X	X	X	X	X
HOCHBERG	MUELLER	HART	AG	MOSCATO

MR. MOSCATO SHAKES MR. REVESZ' HAND. MR. BARR SHAKES MR. REVESZ' HAND AND PRESENTS AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN ALL SIX INDIVIDUALS THEN MOVE CLOSE TOGETHER FOR A GROUP PHOTOGRAPH.

MR. GERSON: THE NEXT JOHN MARSHALL AWARD FOR TRIAL OF LITIGATION GOES TO RICK A. MOUNTCASTLE, TRIAL ATTORNEY, SOUTHERN REGION, CRIMINAL ENFORCEMENT SECTION OF THE TAX DIVISION. MR. MOUNTCASTLE IS BEING RECOGNIZED FOR HIS OUTSTANDING ACHIEVEMENTS IN INVESTIGATING AND PROSECUTING INDIVIDUALS CONSPIRING TO DEFRAUD THE UNITED STATES BY EVADING GASOLINE EXCISE TAXES. MR. MOUNTCASTLE . . .

MR. BARR SHAKES MR. MOUNTCASTLE'S HAND AND PRESENTS THE AWARD DEVICE. MR. BRUTON COMES FROM HIS SEAT ON STAGE AND SHAKES MR. MOUNTCASTLE'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. GERSON: THERE ARE TWO RECIPIENTS OF THE JOHN MARSHALL AWARD FOR PARTICIPATION IN LITIGATION THIS YEAR. THE FIRST AWARD IS PRESENTED TO A GROUP OF FOUR EMPLOYEES AND A FORMER EMPLOYEE FROM THE OFFICE OF THE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF PENNSYLVANIA, FOR THEIR SUCCESSFUL PROSECUTION OF TWO ORGANIZATIONS THAT SOLD MASSIVE AMOUNTS OF NARCOTICS AND HELD A RESIDENTIAL PHILADELPHIA NEIGHBORHOOD HOSTAGE FOR FOUR YEARS. THE RECIPIENTS ARE ASSISTANT UNITED STATES ATTORNEYS JOSEPH T. LABRUM, III; KRISTIN R. HAYES; ROBERT A. ZAUZMER, JAMES H. SWAIN; AND FORMER ASSISTANT UNITED STATES ATTORNEY, JEFFREY M. LINDY. MR. LABRUM, MS. HAYES, MR. ZAUZMER, MR. SWAIN, AND MR. LINDY . .

MR. BARR SHAKES MR. LABRUM'S HAND AND PRESENTS THE AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. LABRUM'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. LABRUM THEN MOVES TO HIS RIGHT PAST MR. BARR TO MAKE ROOM FOR MS. HAYES AS DEPICTED BELOW.

		[Lectern]	
X		X	X
LABRUM		AG	MOSCATO

A U D I E N C E

MR. MOSCATO SHAKES MS. HAYES' HAND AND MR. BARR SHAKES MS. HAYES' HAND AND PRESENTS THE AWARD DEVICE. THEN ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN MS. HAYES MOVES TO HER RIGHT TO JOIN MR. LABRUM.

			[Lectern]
X	X	X	X
LABRUM	HAYES		AG MOSCATO

MR. MOSCATO SHAKES MR. ZAUZMER'S HAND. MR. BARR SHAKES MR. ZAUZMER'S HAND AND PRESENTS THE AWARD DEVICE. THEN ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN MR. ZAUZMER MOVES TO HIS RIGHT AND JOINS THE OTHERS.

				[Lectern]
X	X	X	X	X
LABRUM	HAYES	ZAUZMER		AG MOSCATO

MR. MOSCATO SHAKES MR. SWAIN'S HAND. MR. BARR SHAKES MR. SWAIN'S HAND AND PRESENTS THE AWARD DEVICE. THEN ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN MR. SWAIN MOVES TO HIS RIGHT AND JOINS THE OTHERS.

				[Lectern]	
X	X	X	X	X	X
LABRUM	HAYES	ZAUZMER	SWAIN	AG	MOSCATO

MR. MOSCATO SHAKES MR. LINDY'S HAND. MR. BARR SHAKES MR. LINDY'S HAND AND PRESENTS THE AWARD DEVICE. THEN ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN ALL SEVEN MOVE CLOSE TOGETHER FOR A GROUP PHOTOGRAPH.

MR. GERSON: THE SECOND JOHN MARSHALL AWARD FOR PARTICIPATION IN LITIGATION IS ALSO A GROUP AWARD AND IS PRESENTED TO ONE EMPLOYEE OF THE CIVIL RIGHTS DIVISION, RICHARD J. RITTER, SPECIAL LITIGATION COUNSEL, HOUSING AND CIVIL ENFORCEMENT SECTION, AND TWO EMPLOYEES OF THE OFFICE OF THE U.S. ATTORNEY, SOUTHERN DISTRICT OF NEW YORK, -- GABRIEL W. GORENSTEIN, CHIEF, APPELLATE UNIT; AND CLAUDE M. MILLMAN, ASSISTANT UNITED STATES ATTORNEY, THE AWARD IS PRESENTED TO MR. RITTER FOR LEADING THE TEAM THAT DEVELOPED THE NATION'S FIRST LAWSUIT CHALLENGING THE MORTGAGE LENDING PRACTICES OF A FINANCIAL INSTITUTION AS RACIALLY DISCRIMINATORY, AND TO MR. RITTER, MR. GORENSTEIN, AND MR. MILLMAN FOR RESOLVING SUCCESSFULLY THE LAWSUIT CHALLENGING THE TENANT SELECTION AND ASSIGNMENT POLICIES OF THE NEW YORK CITY HOUSING AUTHORITY. MR. RITTER, MR. GORENSTEIN, AND MR. MILLMAN

. . .

MR. BARR SHAKES MR. RITTER'S HAND AND PRESENTS THE AWARD DEVICE. MR. DUNNE COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. RITTER'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. RITTER AND MR. DUNNE THEN MOVE TO THEIR RIGHT TO MAKE ROOM FOR MR. GORENSTEIN AS DEPICTED BELOW.

				[LECTERN]
X	X		X	
RITTER	DUNNE		AG	

AUDIENCE

MR. BARR SHAKES MR. GORENSTEIN'S HAND AND PRESENTS THE AWARD DEVICE. MR. MOSCATO COMES FROM HIS SEAT ON THE STAGE AND SHAKES MR. GORENSTEIN'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. MR. GORENSTEIN THEN MOVES TO HIS RIGHT TO JOIN THE OTHERS AND MAKE ROOM FOR MR. MILLMAN.

					[LECTERN]
X	X	X	X	X	X
RITTER	DUNNE	GORENSTEIN		AG	MOSCATO

MR. MOSCATO SHAKES MR. MILLMAN'S HAND. MR. BARR SHAKES MR. MILLMAN'S HAND AND PRESENTS THE AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN ALL SIX MOVE CLOSE TOGETHER FOR A GROUP PHOTOGRAPH.

MR. GERSON: THIS YEAR, WE ARE PRESENTING TWO JOHN MARSHALL AWARDS FOR SUPPORT OF LITIGATION. THE FIRST IS PRESENTED TO FELIX V. BAXTER, ASSISTANT BRANCH DIRECTOR, FEDERAL PROGRAMS BRANCH, CIVIL DIVISION, IN RECOGNITION OF HIS OUTSTANDING ACHIEVEMENT IN LEADING A TEAM OF CIVIL DIVISION AND OFFICE OF THRIFT SUPERVISION ATTORNEYS IN A CONTROVERSIAL CASE IN WHICH PROFESSIONALS WERE HELD ACCOUNTABLE FOR THEIR ROLES IN THE MASSIVE FINANCIAL LOSSES SUSTAINED BY THE TAXPAYERS IN THE SAVINGS AND LOAN CRISIS. MR. BAXTER . . .

MR. BARR SHAKES MR. BAXTER'S HAND AND PRESENTS THE AWARD DEVICE. MR. GERSON COMES FROM THE LECTERN AND SHAKES MR. BAXTER'S HAND. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH.

MR. MOSCATO SHAKES MR. MCLAUGHLIN'S HAND. MR. BARR SHAKES MR. MCLAUGHLIN'S HAND AND PRESENTS THE AWARD DEVICE. ALL THREE FACE FORWARD FOR A GROUP PHOTOGRAPH. THEN ALL FOUR MOVE CLOSE TOGETHER FOR A FINAL GROUP PHOTOGRAPH.

MR. GERSON AND MR. BARR RETURN TO THEIR SEATS ON THE STAGE. MR. TERWILLIGER GOES TO THE LECTERN.

MR. TERWILLIGER: IT HAS BEEN A PLEASURE TO HELP PRESENT THESE WELL-DESERVED AWARDS TO DEPARTMENT EMPLOYEES AND OTHER INDIVIDUALS WHO HAVE WORKED SO HARD TO PROMOTE THE DEPARTMENT'S MISSION OF JUSTICE. THIS CONCLUDES TODAY'S CEREMONY. THANK YOU ALL VERY MUCH FOR JOINING US TO HONOR THESE EXTRAORDINARY INDIVIDUALS. PLEASE JOIN ME IN ONE FINAL ROUND OF APPLAUSE TO HONOR ALL OF OUR RECIPIENTS TODAY.

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Executive Branch Interpretation of the Law

[William P. Barr](#)^{al}

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**ATTORNEY GENERAL'S REMARKS, BENJAMIN N. CARDOZO
SCHOOL OF LAW, NOVEMBER 15, 1992**

While the modern Attorney General is active in a broad array of policy decisions and legal matters, this evening we are concerned only with what was once the core of the Attorney General's duties: legal interpretation within the executive branch. First, I would like to trace the evolution of the office of Attorney General from part-time legal advisor for the new government to head of a major department involved in making policy across a broad range of subjects. Second, I want to discuss the Attorney General's role in interpreting the law, both in rendering legal advice to the executive branch and in determining its litigating positions. In doing so, I will discuss the alleged tension between the Attorney General's roles as a legal advisor and as a policy subordinate of the President.

I.

Although the office of Attorney General was among the first cabinet positions created in 1789,¹ it was some time before the office carried the same weight and rank as the other departments, in both size and responsibility. Initially, the Attorney General was in many ways like an attorney on retainer. He had no staff, no office space, and no supplies.² It appears that he was not required to live in the capital.³ And he was paid half what the other cabinet secretaries were paid.⁴ In keeping with the contemporary practice in England, the Attorney General was a part-time government employee. Congress expected him to supplement his meager salary through private practice. In offering the job to Edmund Randolph, the first Attorney General, George Washington suggested that it would help him attract clients.⁵ So much for government ethics in those days.

*32 Initially, the Attorney General's duties were quite limited. As specified in the Judiciary Act of 1789, he had only two responsibilities: one, "to prosecute and conduct all suits in the Supreme Court in which the United States shall be concerned,"⁶ and two, "to give his advice and opinion upon questions of law when required by the President of the United States, or when requested by the heads of any of the departments, touching any matters that may concern their departments"⁷ Although that statute was enacted in 1789, it remains the law. As head of the Office of Legal Counsel, I was often asked by members of Congress for legal advice. I would refuse: it is not the responsibility of the Attorney General's office to give legal advice to Congress, which has its own counsel. They would protest, but the statute dictates that the Attorney General is to give advice when asked by the President.

The Attorney General was not initially responsible for the conduct of litigation in the lower courts, and did not have supervisory authority over the district attorneys. Soon it was recognized, however, that even the limited functions of the Attorney General would require more than part-time work. In 1818, Congress finally gave the Attorney General one

clerk, an office, and some supplies.⁸ The next year, Congress increased the Attorney General's salary to that of other cabinet officials.⁹

Yet by tradition as much as by duties, the Attorney General was primarily a detached legal advisor, and not really involved in policymaking. Abraham Lincoln's Attorney General, Edward Bates, observed: "The office I hold is not properly *political*, but strictly *legal*; and it is my duty, above all other ministers of State to uphold the Law and to resist all encroachments, from whatever quarter, of mere will and power."¹⁰

After the Civil War, the office of the Attorney General began to expand dramatically. In 1870, the Department of Justice was formed, and Congress placed litigation conducted by district attorneys in the lower courts under the supervision of the Attorney General.¹¹ Over the next century, federal law enforcement became a far greater concern, and the Attorney General acquired further duties and responsibilities. Today, the Attorney General's office is responsible for the *33 Immigration and Naturalization Service, the Bureau of Prisons, the Drug Enforcement Agency, the Federal Bureau of Investigation, the United States Marshals, the United States Trustees, the Pardon Attorney, the Parole Board, ninety-four U.S. Attorneys, six litigating divisions in Washington, a large grant program, an asset forfeiture program that has \$1 billion in the pipeline at any one time, and numerous other responsibilities. It has been the fastest-growing department by far since 1980. Its budget is almost \$12 billion. Thus, the Attorney General now has substantial policy as well as legal responsibilities.¹²

While the Attorney General has been acquiring increased policy responsibilities, the other agencies and departments have acquired their own legal staffs. This has somewhat reduced the Attorney General's burden of advising on day-to-day operations; at the same time, it has created complications and conflicts. For every day that I am glad that there is a general counsel available to each agency, there is another day that I wish there were one general counsel in the Justice Department who answered all the questions. Yet on significant and constitutional issues, the Attorney General has clearly remained the principal legal advisor to the President and to the executive branch.

II.

Today, the Attorney General remains responsible for his two initial functions: providing advice to the executive branch officials on matters of law, and conducting litigation in the Supreme Court. The advice function is performed by the Office of Legal Counsel, and the litigation function is performed by the Office of the Solicitor General. The Attorney General's greater policymaking involvement has created additional challenges in remaining a detached and effective legal advisor. Those challenges vary with the context in which the legal advice is given. Before directly addressing those issues, I will briefly discuss the Attorney General's various interpretative functions.

First, the Attorney General acts as a counselor, in a paradigmatic attorney-client sense, to the President in his official capacity and to the heads of the executive branch agencies. The most obvious example is providing opinions on contemplated executive actions. No less important is the advice provided on bills presented to the President for his approval. Second, the Attorney General is responsible for the resolution of legal disputes between agencies within the executive *34 branch. A third and sometimes overlooked aspect of legal interpretation by the Attorney General is the control the Attorney General exerts over the litigating positions of the executive branch. But the bulk of the Attorney General's role, and certainly the most controversial aspect of it, is the legal interpretation that is done as the direct legal advisor to the President and to the cabinet. Here the Attorney General functions most like a typical attorney, advising a client on his legal options.

For example, when I was head of the Office of Legal Counsel under Attorney General Thornburgh, we gave advice about the United States's options in Panama, the legal justification for the invasion, and how we could arrest Manuel Noriega--

and make it stick in court.¹³ We also dealt with the international law questions that would be raised.¹⁴ We gave advice on establishing martial law in St. Croix after Hurricane Hugo. Sometimes the questions are extremely important. Some of you may have read the book *The Commanders*,¹⁵ about the war in the Persian Gulf. In that book, Bob Woodward writes that when Attorney General Thornburgh was out of town and I was Deputy Attorney General, I was asked to advise the President on whether or not he could initiate operations against Iraq without the authorization of Congress.¹⁶ Woodward writes that I told President Bush that he could.¹⁷ Of course, we also get more mundane questions, such as “What is the effective date of this statute?” and “When does the ninety days run out?” But sometimes the questions are quite interesting, and do keep one awake at night.

The unique position of the Attorney General raises special considerations. The Attorney General's oath to uphold the Constitution raises the question whether his duty lies ultimately with the President who appointed him or more abstractly with the rule of law. I said in my confirmation hearings, and have said several times since, that the Attorney General's ultimate allegiance must be to the rule of law.¹⁸ In my experience, there has not been any substantial tension between the role of upholding the rule of law and the role of the Attorney General as a policy subordinate of the President. As with any lawyer, the Attorney General best serves his client by providing unvarnished, straight-from-the-shoulder legal advice as to what the Attorney General thinks the law is, without regard to political considerations. Being a good legal advisor requires that I reach sound legal conclusions, even if sometimes they are not the conclusions that some may deem to be politically preferable.

Much depends on the question that is asked. As head of the Office of Legal Counsel and as Attorney General, I have paid a great deal of attention to what question is being asked of me as a lawyer. In this administration, my experience has been that the question asked usually is, what is the right answer. What is the *legally* right position? You could get another question, which is, can you advance a reasonable argument to sustain a given action. But more than nine times out of ten, the question is, is this regulation lawful, in your best judgment. That certainly was the question asked about the line-item veto. My predecessor, Charles J. Cooper, wrote a long memorandum concluding that the line-item veto was unconstitutional.¹⁹ I spent about six months reexamining that issue. I came to the conclusion that the line-item veto was not in the Constitution, and that it would be very difficult to mount any reasonable argument that it was.

Another more recent example is the question of indexing capital gains.²⁰ There was a great deal of pressure--not from the administration but from writers and from Republicans on the Hill--to conclude that the President could index capital gains. There again, I paid close attention to the question that was being asked. Robert Novak wrote that the real problem was that I was not sent sufficient signals as to what answer was wanted.²¹ While I agree with Novak on many things, here he was mistaken. On the contrary, I was clearly told what the question was, which was, is indexing lawful. Also, I understood the policy preferences of the administration. The question was: Can we, simply through administrative action, index capital gains. And not only did I not think we could, I did not think that a reasonable argument could be made to support that position.²²

The reason that I had no hesitation in rejecting the legal bases for a line-item veto and capital gains indexing is rooted in my view that the President has a responsibility to his office to advance responsible positions of law. I believe that President Bush fully shares this position. Ultimately, if you attempt to push too hard--even as a matter of litigation risks--and take legal positions that clearly will not be sustained, or that are not responsible and reasonable legal positions, you will lose ground. That certainly was the consequence of the *Steel Seizure Case*.²³ And so in this administration, that is why the question has been, what is the right legal answer--not whether we can provide a veneer of justification for a given action. Our view has been that if we go into court with untenable positions and lose, we ultimately weaken the office of the President.

Another special consideration that confronts the Attorney General that does not confront the private attorney when giving advice is that the Attorney General's opinions are binding in a way that private attorneys' opinions rarely are. Obviously, Attorney General opinions cannot bind the President, but by executive order, the Attorney General's opinions do bind the executive branch, at least with respect to interagency disputes.²⁴ This highlights another change from the early days of the Office of the Attorney General. Although the opinion is not uniform, many of the early Attorneys General looked upon their advice as no more binding on the executive branch than is a private attorney's on his client. Attorney General Jeremiah Black, for example, observed in 1857 that:

The duty of the Attorney General is to advise, not to decide. . . . You may disregard his opinion if you are sure it is wrong. He aids you in forming a judgment on questions of law; but still the judgment is yours, not his. You are not bound to see with his eyes, but only to use the light which he furnishes, in order to see the better with your own.²⁵

In the interest of uniformity within the executive branch, the contrary view has prevailed, although the issue is not free from debate as to so-called “independent” agencies. Therefore, when giving his opinion, the Attorney General, unlike a typical lawyer, must pay close attention to consistency and precedent, rather than simply to the immediate interests of his client. This necessary concern for continuity contributes to the Attorney General's resistance to temporary political pressures.

***37** Interagency disputes on legal matters present a particularly strong test of that resistance. By executive order, the President has delegated to the Attorney General the responsibility for resolving disputes between agencies over what the law is.²⁶ In this context, the Attorney General's role is much like a court's in an adversarial proceeding. Because each agency has its own staff of lawyers, disputes between them come before the Attorney General with legal positions already well-established. Each agency will usually have legal authority or good arguments to support its view. The Office of Legal Counsel requires each side to come in with briefs, just as if it were a judicial proceeding. Deciding among the positions being taken requires the Attorney General--or in most cases the Office of Legal Counsel--to function as a judge.

The Department of Justice does not in this context make policy decisions. Just as a court would, the Department confines itself to the legal questions presented. Its reason for doing so, however, is different from a court's reason. If a court were making the decision, we would say with certainty that policy choices should be left to the political branches of government. Being part of a political branch, however, the Department cannot fall back on that principle. Some observers might argue, therefore, that if both positions are arguably correct, the Attorney General should, as the President's legal advisor, favor the approach most consistent with the administration's overall program. Some argued this during the capital gains indexing debate (although this was not a dispute between two agencies).

In the context of resolving legal disputes under the executive order, we reject this view. Furthering the administration's policy goals is not our role in giving legal advice, and it is not our role in resolving disputes. The question in both contexts is, what is the right legal answer. The Attorney General's authority to decide at all comes from the President.²⁷ Traditionally, this mandate has been understood to encompass only legal questions. Policy disputes are resolved elsewhere within the executive branch. Any other arrangement would undermine the Attorney General's credibility in rendering legal opinions. Hence, both prudence and the President's delegation of authority require the Attorney General to consider, when resolving disputes, not the administration's policy objectives, but the rule of law. This is true unless a different question is asked, which is, can you sustain a given position with reasonable, good faith legal arguments.

Different concerns arise in the context of advice on bills ***38** presented to the President for approval. The role of presidential signing statements in executive branch legal interpretation is sometimes overlooked, but is of growing importance.²⁸ The use of signing statements dates back at least to Andrew Jackson,²⁹ but Presidents Reagan and Bush

have used them much more frequently to identify constitutionally problematic provisions. The Attorney General advises the President on potential constitutional problems in all legislation presented for his signature. The Department of Justice reviews more legislation than any other government agency by far. Many people in a practical, pragmatist government are contemptuous of the Department of Justice for examining constitutional details in legislation.

But consider, for example, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA),³⁰ the savings and loan bailout statute. The Office of Legal Counsel recognized an Appointments Clause problem in the FIRREA bill. The director of the Office of Thrift Supervision should have been appointed by the President; he could not be grandfathered in by the chairman of the Home Loan Bank Board.³¹ Many people in the Treasury Department and on the Hill thought it was absurd that the Department of Justice was worried about that kind of issue, while they were trying to solve the savings and loan crisis. So the views of the Department of Justice were overridden. Political deals were made, and the bill passed. The law was then struck down by a federal court as unconstitutional.³² This created a panic, and delayed dealing effectively with the savings and loan crisis. When a provision raises constitutional difficulties, in most cases the Attorney General should recommend veto.³³ I have--I even recommended the veto of our own appropriations bill. No other agency, I think, has ever done that.

*39 In many cases, the Department of Justice will propose, as a fall-back position, that an issue be addressed in a signing statement if it would be politically impossible simply to veto a bill. For instance, at the very end of its session, Congress frequently passes large bills and then leaves town. The only choice we have is to veto the bill and, say, shut down the foreign operations of the United States altogether for six months, or to sign the bill and note exception to some provision we think is unconstitutional. Thus, in some instances, signing statements have directed subordinate officials to disregard provisions of a bill that are thought to be clearly unconstitutional and severable.

The use of signing statements to say that agencies should refuse to enforce part of a law because it is unconstitutional has been extremely controversial. Our position, or my position when I was at the Office of Legal Counsel, was that the President could use signing statements in that way where the law encroached on executive authority.³⁴ For example, a 1990 foreign relations bill had a provision forbidding spending funds on sending a delegation to a negotiating session, unless the delegation included members of the (Congress-controlled) Commission on Security and Cooperation in Europe.³⁵ Essentially, Congress tried to control the President's appointment power by forcing him to appoint members of a legislative entity to a diplomatic delegation. In our view, that was a clearly unconstitutional encroachment on the President's appointment authority as well as on his authority to administer the foreign relations of the United States.³⁶ Since the bill contained all of our foreign relations money, we said that the President could sign the bill and at the same time announce that the provision would not be enforced.³⁷ In fact, that is what was done, and no legislative members were appointed. We said that the power to decline to enforce the law flows from the Take Care Clause--"take Care that the Laws be faithfully executed"³⁸ The Constitution is the law. If the President is confronted with a circumstance where the Constitution says one thing and a statute says another, the President or the Attorney General has to choose the supreme law of the land. Particularly where a law encroaches on executive power, the only effective way of challenging the law is by declining to enforce it. Otherwise, the President would be at the mercy *40 of Congress. The only reference to this issue at the Constitutional Convention was by James Wilson, who said that one of the President's defenses to encroachments on presidential power is the President's refusal to execute those unconstitutional parts of the law.³⁹

We have also used signing statements to set forth the President's understanding of how a particular provision in the bill is to be interpreted, his understanding of what it means, or his directive as to how the executive branch is going to interpret it. It is unclear what weight, if any, the courts will give such statements. The President has a constitutionally-mandated part in the legislating process. To the extent that legislative history is given effect, it may be that presidential signing statements should be viewed as part of legislative history. Beyond that, the Constitution requires that the President "take

Care that the Laws be faithfully executed”⁴⁰ Signing statements provide the needed direction to guide subordinate executive officers on how to execute the law faithfully.

The final method of executive branch legal interpretation I would like to address tonight is the Attorney General's role in determining the litigating posture of the United States. Obviously, the position that the Department takes in a brief carries no weight apart from its persuasiveness. But it is in this area that it is most likely that charges of political gamesmanship will be leveled. It must be remembered that in litigation, the Attorney General represents the United States. And I believe that the Attorney General as an advocate must strive for the correct legal result. Observers often equate the correct result with that which is most consistent with a position previously adopted by the courts. Thus, when the Department tries to persuade a court to reconsider its position, or advances a novel argument on a subject previously thought to have been closed, some people have suggested that this is inappropriate--that this is being political. But it is entirely consistent with the Attorney General's duties to advocate such a position. If the Attorney General concludes that a particular line of precedent is incorrect as a matter of law, it is as much a policy decision, if not more so, to acquiesce in that line of decision as to urge that it be discarded. Like the President, the Attorney General is sworn to uphold the Constitution. While the executive branch will not disregard a decision of the Supreme Court, even one that is clearly wrong, this does not mean that presidents are forever debarred from seeking reconsideration of a position that has previously been taken by the *41 Court.⁴¹ I believe that urging the Court to reconsider a prior decision serves the executive branch's obligation to the Constitution, without diminishing the Court's constitutional role.

III.

The issues I have highlighted afford no easy solutions. Much depends on the personal integrity of the attorneys at the Department of Justice and throughout the executive branch who are responsible for the professional and faithful implementation and administration of the law. Of course, the policymakers themselves must value the legal conclusions of those attorneys. Robert Novak said that if Lyndon Johnson--and I do not necessarily believe this of Lyndon Johnson--were then President, William Barr would have been out on the street thirty seconds after giving the capital gains indexing opinion.⁴² Indeed, it is true that President Jackson once consulted his Attorney General on a proposal to designate certain banks as depositaries of U.S. funds. The President told his Attorney General, “Sir, you must find a law authorizing the act or I will appoint an Attorney General who will.”⁴³ Ultimately, it falls upon the Attorney General to resist such pressure, in Attorney General Bates's words, “from whatever quarter.”⁴⁴ Honest legal advice is valuable to policymakers in assessing the litigation risks of their actions, but more importantly it is essential to our system of government. Nothing would be so destructive to the rule of law as to permit purely political considerations to overrun sound legal judgment.

Footnotes

^{a1} Attorney General, 1991-1993; Deputy Attorney General, 1990-1991; Assistant Attorney General for the Office of Legal Counsel, 1989-1990.

¹ See Act of Sept. 24, 1989, ch. 20, 1 Stat. 73, 93.

² Luther A. Huston, *History of the Office of the Attorney General*, in ROLES OF THE ATTORNEY GENERAL OF THE UNITED STATES 1, 1-2 (1968).

³ *Id.* at 6.

⁴ CORNELL W. CLAYTON, *THE POLITICS OF JUSTICE: THE ATTORNEY GENERAL AND THE MAKING OF LEGAL POLICY* 16 (1992).

⁵ Huston, *supra* note 2, at 5-6.

- 6 Act of Sept. 24, 1789, ch. 20, 1 Stat. 73, 93.
- 7 *Id.*
- 8 Act of Apr. 20, 1818, ch. 87, 3 Stat. 445, 447.
- 9 Act of Mar. 3, 1819, ch. 54, 3 Stat. 496, 500.
- 10 See Arthur S. Miller, *The Attorney General as the President's Lawyer*, in ROLES OF THE ATTORNEY GENERAL OF THE UNITED STATES 41, 51 (1968).
- 11 Act of June 22, 1870, ch. 150, 16 Stat. 162, 164.
- 12 See generally 1992 ATT'Y GEN. ANN. REP. (describing current activities of the Department of Justice).
- 13 13 Op. Off. Legal Counsel 387 (1989).
- 14 Giving advice on international law questions is a long-standing practice of the Office of the Attorney General. See, e.g., 1 Op. Att'y Gen. 27 (1792) (applicability of "law of nations" to United States); 1 Op. Att'y Gen. 30 (1793) (reprisals against foreign states under law of nations); 1 Op. Att'y Gen. 68 (1797) (entry into Spanish territory to recover property under law of nations).
- 15 BOB WOODWARD, THE COMMANDERS (1991).
- 16 *Id.* at 356-57.
- 17 *Id.*
- 18 See *Confirmation Hearings on Federal Appointments*, 102d Cong., 1st Sess., pt. 2, at 1, 16-17, 80 (1991).
- 19 12 Op. Off. Legal Counsel 159 (1988).
- 20 16 Op. Off. Legal Counsel 145 (1992).
- 21 See Rowland Evans & Robert Novak, *A Presidential Test on Capital Gains*, WASH. POST, Sept. 2, 1992, at A21.
- 22 16 Op. Off. Legal Counsel 145 (1992).
- 23 *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952); see WILLIAM H. REHNQUIST, THE SUPREME COURT: HOW IT WAS, HOW IT IS 61-98 (1987).
- 24 Exec. Order No. 12,146, § 1-401, 3 C.F.R. 409 (1979), reprinted in 28 U.S.C. § 509 (1992); see generally Nelson Lund, *Rational Choice at the Office of Legal Counsel*, 15 CARDOZO L. REV. 437, 489-91 (1993) (discussing role of the Department of Justice in resolving interagency disputes).
- 25 9 Op. Att'y Gen. 32, 36 (1857).
- 26 Exec. Order No. 12,146, § 1-401, *supra* note 24.
- 27 See *id.*; see U.S. CONST. art. II, § 2.
- 28 See generally Douglas W. Kmiec, *Of Balkanized Empires and Cooperative Allies: A Bicentennial Essay on the Separation of Powers*, 37 CATH. U. L. REV. 73, 81-83 (1987) (describing increasing use of presidential signing statements).
- 29 Douglas W. Kmiec, *Judges Should Pay Attention to Statements by President*, NAT'L L.J., Nov. 10, 1986, at 13.
- 30 12 U.S.C. § 1462a (1992).
- 31 The Office of Thrift Supervision replaced the Federal Home Loan Bank Board under FIRREA. See 12 U.S.C. § 1462a(e)(1) (1992).

- 32 [Olympic Fed. Sav. & Loan v. Assoc. Director, Office of Thrift Supervision](#), 732 F. Supp. 1183 (D.D.C.), *dismissed as moot*, 903 F.2d 837 (D.C. Cir. 1990).
- 33 The President ultimately must act on the basis of his own understanding of the Constitution. If the Attorney General believes that a given statute is unconstitutional, but also believes that it is more probable than not that the statute would be upheld by the courts, it would still be appropriate to recommend veto on constitutional grounds. Providing one's view on a statute is not merely a question of predicting litigation risks. *See* Michael B. Rappaport, [The President's Veto and the Constitution](#), 87 NW. U. L. REV. 735, 771-76 (1993) (discussing President's responsibility to veto bills believed to be unconstitutional).
- 34 14 Op. Off. Legal Counsel 38 (1990).
- 35 Foreign Relations Authorization Act, Fiscal Years 1990 & 1991, [Pub. L. No. 101-246, § 102](#), 104 Stat. 15, 19 (1990).
- 36 14 Op. Off. Legal Counsel 38 (1990).
- 37 Statement on Signing the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, 26 PUB. PAPERS 239 (Feb. 16, 1990).
- 38 U.S. CONST. art. II, § 3.
- 39 2 THE DOCUMENTARY HISTORY OF THE RATIFICATION OF THE CONSTITUTION 450-51 (Merrill Jensen ed., 1976) (statement of James Wilson on Dec. 1, 1787).
- 40 U.S. CONST. art. II, § 3.
- 41 *See* John O. McGinnis, [Models of the Opinion Function of the Attorney General: A Normative, Descriptive, and Historical Prolegomenon](#), 15 CARDOZO L. REV. 375, 394-96 (1993).
- 42 *See* Rowland Evans & Robert Novak, [A Presidential Test on Capital Gains](#), WASH. POST, Sept. 2, 1992, at A21.
- 43 *See* Miller, *supra* note 10, at 51.
- 44 *See supra* note 10 and accompanying text.

15 CDZLR 31

IT IS A VERY GREAT HONOR FOR ME TO BE ABLE TO JOIN WITH YOU AT ~~THE~~ I.A.C.P.'s 99th ANNUAL CONFERENCE.

WE AT THE DEPARTMENT OF JUSTICE FEEL WE ENJOY A PARTICULARLY CLOSE RELATIONSHIP WITH THIS ASSOCIATION.

WE COLLABORATE TOGETHER ON A BROAD RANGE OF MATTERS TO STRENGTHEN AND IMPROVE THE CRIMINAL JUSTICE SYSTEM IN THIS COUNTRY.

WE AT THE DEPARTMENT VALUE NO RELATIONSHIP MORE THAN THIS ONE.

AS ATTORNEY GENERAL, I AM COMMITTED^M TO BUILDING UPON AND STRENGTHENING THE RELATIONSHIP THAT WE HAVE -- THIS EXCELLENT WORKING PARTNERSHIP -- IN THE MONTHS AND YEARS AHEAD.

AND LET ME COMMENT ROLAND VAUGHAN ON HIS LEADERSHIP OVER THE PAST YEAR.

WE HAVE ACCOMPLISHED A LOT, AND WORKING WITH ~~YOU~~ ROLAND HAS BEEN A REAL PRIVILEGE AND PLEASURE.

STEVE HARRIS

TODAY, I WOULD LIKE TO TALK TO YOU ABOUT WHAT HAS BEEN MY PRINCIPAL CONCERN AS ATTORNEY GENERAL -- AND THAT IS VIOLENT CRIME.

I DON'T THINK WE FACE A GRAVER PROBLEM AS A SOCIETY.

WHEN YOU STEP BACK AND LOOK AT THE BIG PICTURE, NO DEVELOPMENT IS MORE PROFOUND OR MORE APPALLING THAN THE EPIDEMIC OF VIOLENCE THAT HAS GRIPPED OUR COUNTRY FOR THE LAST 30 YEARS.

IN THE PAST THREE DECADES, VIOLENT CRIME HAS INCREASED 500%.

A FIVE-FOLD INCREASE IN JUST 30 YEARS! THAT IS A STAGGERING FACT.

THIS INCREASING ~~VIOLENCE~~ VIOLENCE HAS CHANGED THE WAY WE LIVE -- IT HAS LIMITED OUR FREEDOMS, AND IT HAS CAST A PALL OF ANXIETY OVER OUR EVERYDAY LIVES.

IT IS FAIR TO ASK WHETHER THERE IS ANYTHING WE CAN DO ABOUT VIOLENT CRIME, OR WHETHER WE ARE DOOMED TO SIT BACK AND ACCEPT THIS SPIRALING VIOLENCE.

OVER THE PAST YEAR I HAVE BEEN SPEAKING A LOT ABOUT THE TOPIC OF VIOLENT CRIME.

NOW I WANT TO TURN TO SOME OF THE CRITICISMS OF THIS POLICY OF GETTING TOUGHER WITH VIOLENT OFFENDERS.

1. SOME SAY (ACLU PRISON PROJECT) :

"GETTING TOUGH DOESN'T WORK; WE HAVE FILLED JAILS; CRIME IS STILL GOING UP; ERGO, POLICY IS FAILURE."

THIS IS FRIVOLOUS. (same can be said for social policies)

A. FIRST, WE HAVEN'T REALLY TRIED CRACKING DOWN FULLY.

CITESTERTON ABOUT CHRISTIANITY.

WELL, IN 1980'S WE DID ABOUT HALF THE JOB. WE GOT MORE MORE INCARCERATING

BUT EVEN THE STEPS WE TOOK, DID WORK!

- 60-70's INCARCERATION RATE DROPPED.
- VIOLENT CRIME INCREASED 400%

- 1980's - INCARCERATION RATES DOUBLED.
- UPWARD TRAJECTORY CAME DOWN.

BUT MORE FUNDAMENTALLY,

B. AND, OF COURSE, THIS CRITICISM MISSES THE POINT.

ISSUE IS NOT WHETHER CRIME STILL GOING UP -- ISSUE IS WHAT CRIME WOULD OTHERWISE BE.

CAN ANYONE SERIOUSLY MAINTAIN THAT WE WOULD HAVE LESS CRIME TODAY, IF WE RELEASED THE 500,000 ADDITIONAL CRIMINALS WE ARE INCAPACITATING TODAY.

I HAVE STANDING OFFER ^{TO THOSE WHO ARGUE THIS.} I'LL RELEASE ANY 10 FEDERAL PRISONERS AS LONG AS THEY CAN LIVE IN YOUR BASEMENT.

2. SOME PEOPLE SAY: "OUR SYSTEM IS TOO PUNITIVE. HIGHEST INCARCERATION RATE IN WORLD. SOVIET UNION, OR WORSE.
→ NONSENSE MISGUIDED.

FACT OF MATTER IS, WE ARE NOT TOO PUNITIVE; WE ARE NOT PUNITIVE ENOUGH.

~~WE ARE FAR LESS PUNITIVE THAN WE WERE IN 1950's.~~

TODAY, IF YOU COMMIT CRIME, CHANCES OF GOING TO PRISON ARE SAME AS CANADA, U.K.

REASON WE HAVE MORE PEOPLE GOING TO PRISON IS BECAUSE WE HAVE HIGHER CRIME RATE.

→ FACT IS THAT OUR SYSTEM IS FAR LESS PUNITIVE THAN IT USED TO BE.

THE PROPER MEASURE OF PUNITIVITY IS THE LIKELIHOOD OF INCARCERATION TIMES LENGTH OF SENTENCE.

THIS LEADS TO AN INDEX CALLED THE "EXPECTED IMPRISONMENT INDEX FOR CRIME".

IN 1959 - 93 DAYS FOR CRIME
IN 1975 - 14 DAYS
IN 1980'S - ~~14~~ GOT IT UP INTO 20'S.

SO IDEA THAT WE ARE TOO PUNITIVE IS ~~POPPYCOCK~~. IS JUST WRONG.

FINALLY,

3. THOSE WHO SAY WE JUST CANNOT AFFORD WHAT IT TAKES TO GET TOUGH. CAN'T AFFORD TO BUILD MORE PRISONS.

THIS ARGUMENT IS ~~FOOLISHLY~~ SHORTSIGHTED.

FACT IS WE CANNOT AFFORD COSTS OF FAILING TO INVEST.

LAW ENFORCEMENT IS A GOOD INVESTMENT.

COST TO SOCIETY OF BUILDING PRISON IS MUCH LOWER THAN DEVASTATING COSTS TO SOCIETY OF FAILING TO INCARCERATE.

COSTS OF CRIME ARE STAGGERING.

- OVER \$100 B. ✓
- \$5 B. GUNSHOTS ✓
- COSTS OF REVOLVING DOOR ✓
- COSTS OF PRIVATE SECURITY ✓
- MACRO-ECONOMIC COSTS. - LOST JOBS REVENUE?

I'VE SEEN VARIOUS C-B ANALYSIS OF PRISONS.

- MOST FAVORABLE SAYS \$1 SAVES \$17.
- LEAST FAVORABLE SAYS \$1 SAVES \$1.80

EITHER WAY IT IS A BARGAIN.

IN NUMEROUS OTHER CONTEXTS WE AS A SOCIETY ARE READY TO SPEND TO PROTECT LIFE.

- HIGHWAY SAFETY
 - BARRIERS / AIR BAGS
 - AUTO INSPECTION 12.5 M. / life saved
- ENVIRONMENT
 - SCRUBBERS
 - ASBESTOS REMOVAL
- \$ 2.6 / LIFE SAVED
- THREAT FAR MORE REMOTE

IF WE APPLIED THIS C-B ANALYSIS TO LAW ENFORCEMENT, SPENDING MIGHT

Ca. done good job. Looks high in % of budget, but I am talking about sustained

ULTIMATELY, I THINK THESE CRITICISMS OF TOUGHER LAW ENFORCEMENT POLICIES ARE HOLLOW.

THEY REALLY OFFER NO ALTERNATIVE STRATEGY, EXCEPT THE DISCREDITED POLICIES OF THE 1960'S AND 1970'S OF GIVING SHORT-SHIFT TO LAW ENFORCEMENT, AND RELYING ALMOST SOLELY ON SOCIAL PROGRAMS.

AT BOTTOM, I THINK THESE CRITICISMS ARE DEFEATIST. THEIR IMPLICATION IS THAT OUR SYSTEM HAS BECOME SO SATURATED BY VIOLENCE THAT WE HAVE TO ACCEPT A CERTAIN LEVEL OF VICTIMIZATION.

I THINK WE MUST REALIZE THAT ANY PROBLEM WORTHY OF BEING CALLED HISTORIC -- AND THE CRIME PROBLEM CERTAINLY IS -- IS INHERENTLY OBSTINATE.

THERE ARE NO SILVER BULLETS OR EASY SOLUTIONS.

~~THE EPIDEMIC OF VIOLENCE HAS TAKEN DECADES TO DEVELOP AND IT WILL~~

IT WILL TAKE SUSTAINED COMMITMENT AND EFFORT OVER A BROAD FRONT.

~~AND~~

IN THE 1990's

A THIRD THING THAT WILL BE REQUIRED -- BEYOND RESOURCES AND REFORM -- IS THAT WE WILL HAVE TO WORK TOGETHER IN LAW ENFORCEMENT TO LEVERAGE OUR RESOURCES AND FOCUS THEM WHERE THEY WILL GET THE MOST BANG FOR THE BUCK.

IT IS MY PHILOSOPHY TO SEEK MAXIMUM COOPERATION BETWEEN FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT.

SO I HAVE PLACED EMPHASIS ON L.E.C.C.S AND COOPERATIVE VENTURES, SUCH AS JOINT TASK FORCES.

WE HAVE NO INTEREST IN EXPANDING FEDERAL JURISDICTION OVER VIOLENT CRIME.

BUT, IN THE CONTEXT OF COOPERATIVE ARRANGEMENTS, I BELIEVE THERE ARE AREAS WHERE OUR FEDERAL TOOLS AND RESOURCES CAN BE USED TO ASSIST OUR STATE AND LOCAL COLLEAGUES IN THE FIGHT AGAINST VIOLENT CRIME.

AND SO WE HAVE ^(LAUNCHED) A NUMBER OF PROGRAMS WHERE, ~~WE~~ AS PART OF TASK FORCES, WE ~~USE~~ SELECTIVELY USE FEDERAL GUN, DRUG, AND ORGANIZED CRIME LAWS TO TARGET THE SERIOUS VIOLENT OFFENDERS.

A.

AN EXCELLENT EXAMPLE OF THIS IS OUR TRIGGERLOCK PROGRAM WHERE WE SEEK TO INCAPACITATE CHRONIC VIOLENT OFFENDERS BY PROSECUTING THEM UNDER FEDERAL FIREARMS LAWS.

TRIGGER LOCK

- SINCE APRIL 1991, WE HAVE CHARGED OVER 10,000 OFFENDERS.
- WE HAVE A 96% CONVICTION RATE.
- THE AVERAGE SENTENCE IS 7.5 YEARS WITHOUT PAROLE.
- THE AVERAGE SENTENCE FOR A THREE-TIME LOSER IS CLOSE TO 19 YEARS WITHOUT PAROLE.

B. ANTI-GANG

ANOTHER EXAMPLE OF THESE COOPERATIVE HIGH-IMPACT OPERATIONS ARE OUR VIOLENT CRIME/ANTI-GANG TASK FORCES WHICH WE HAVE NOW ESTABLISHED IN MOST LARGE CITIES.

- ACROSS THE COUNTRY, WE ARE STARTING TO SEE THE SUCCESSFUL USE OF RICO AND GUN + DRUG LAWS TO TAKE DOWN WHOLE STREET GANGS.

C.

A FURTHER EXAMPLE IS OPERATION GUNSMOKE -- THE U.S. MARSHALS FUGITIVE OPERATION WHICH TARGETTED CHRONIC VIOLENT OFFENDERS.

GUN-SMOKE

- IN 10 WEEKS, ~~OVER~~ OVER 3,300 DANGEROUS FUGITIVES WERE APPREHENDED.

(3)

-- A MARK OF THE SUCCESS OF THIS OPERATION WAS THAT 99% OF THOSE APPREHENDED WERE DETAINED AFTER THEIR FIRST APPEARANCE.

* AND RIGHT NOW WE HAVE GUNSMOKE II UNDERWAY IN SEVERAL MAJOR CITIES AROUND THE COUNTRY.

-- THIS OPERATION FOCUSES ON FUGITIVES WHO HAVE COMMITTED VIOLENT SEX CRIMES, OR SEX CRIMES AGAINST CHILDREN.

-- IN THE FIRST COUPLE OF WEEKS, WE HAVE APPREHENDED OVER 140 OFFENDERS.

(4)
WTS
BEYOND RESOURCES, REFORM, AND THESE COOPERATIVE HIGH-IMPACT OPERATIONS, I THINK A FOURTH THING WE ARE GOING TO HAVE TO DO IS DO A BETTER JOB OF APPLYING OUR SOCIAL PROGRAMS IN A WAY THAT COMPLEMENTS OUR LAW ENFORCEMENT ACTIVITIES.

THIS IS WHAT OUR NEED + SEED STRATEGY IS ALL ABOUT.

THIS IS A STRATEGY FOR GETTING MORE OUT OF OUR SOCIAL PROGRAMS.

IT INVOLVES DRAWING OUR FEDERAL, STATE, AND LOCAL (AS WELL AS PRIVATE) SOCIAL PROGRAMS TOGETHER

(4)

AND APPLYING THEM IN A COORDINATED WAY
IN TARGETTED NEIGHBORHOODS.

IT ALSO INVOLVES INTEGRATING THESE SOCIAL PROGRAMS WITH EFFECTIVE LAW ENFORCEMENT EFFORTS WITHIN THE NEIGHBORHOOD, INCLUDING THE USE OF COMMUNITY-ORIENTED POLICING.

AND PERHAPS, MOST IMPORTANT, WEED & SEED INVOLVES FORMING A STRONG WORKING PARTNERSHIP WITH THE COMMUNITY ITSELF -- SO THAT THE COMMUNITY BECOMES ACTIVELY ENGAGED IN PROBLEM-SOLVING AND MAKING THE DECISION THAT AFFECTS THEIR LIVES.

AS YOU KNOW, WEED+SEED IS GETTING STARTED AROUND THE COUNTRY, AND THE EARLY INDICATIONS ARE PROMISING INDEED.

I WAS JUST OUT IN SANTA ANNA WHERE THEY ARE SEEING A SUBSTANTIAL REDUCTION IN CRIME ~~IN~~ IN COMPARING THIS PAST SUMMER WITH THE PRECEDING SUMMER.

-- CRIME HAS DROPPED IN EVERY CATEGORY BETWEEN 30-70%, WITH THE INCEPTION OF W+S.

-- AND WE ARE NOT SEEING DISPLACEMENT, ON THE CONTRARY, CRIME IN THE SURROUNDING DISTRICT HAS ALSO DROPPED SUBSTANTIALLY.

IN SUM, THEN, IT HAS BEEN MY VIEW
THAT LAW ENFORCEMENT CAN HAVE AN IMPACT
ON VIOLENT CRIME -- THAT WE ARE NOT
DOOMED TO SIT BACK AND WATCH VIOLENCE
SPIRAL UPWARDS,

IF WE FOCUS ON INCAPACITATING CHRONIC OFFENDERS,

IF WE INVEST THE NECESSARY RESOURCES,

IF WE REFORM THE CRIMINAL JUSTICE SYSTEM
SO WE HAVE THE TOOLS TO DEAL EFFECTIVELY WITH
VIOLENT CRIMINALS,

IF WE LEVERAGE OUR RESOURCES THROUGH COOPERATIVE
ACTIVITIES ~~THAT~~ ~~THAT~~ TARGET THE MOST
VIOLENT OFFENDERS,

AND, IF WE ARE SMARTER ABOUT HOW WE APPLY OUR
SOCIAL PROGRAMS -- SPECIFICALLY, IF WE INTEGRATE
THEM WITH LAW ENFORCEMENT AND APPLY THEM ON
A NEIGHBORHOOD-BY-NEIGHBORHOOD BASIS --

THEN, I THINK, THERE IS A PROSPECT
FOR HAVING A REAL IMPACT ON THE LEVELS OF
VIOLENCE.

WHAT I WOULD LIKE TO DO TODAY IS TO LAYOUT (IN SOMEWHAT MORE SUMMARY FASHION THAN USUAL) SOME OF THE KEY POINTS I HAVE BEEN MAKING, AND THEN I WOULD LIKE TO RESPOND TO SOME OF THE CRITICISMS.

ONE KEY POINT I HAVE TRIED TO MAKE HAS TO DO WITH THE PROPER RELATIONSHIP BETWEEN LAW ENFORCEMENT AND SOCIAL PROGRAMS.

IN DISCUSSIONS ABOUT CRIME FIGHTING, YOU USUALLY HEAR TWO DIFFERENT APPROACHES BEING OFFERED:

-- EITHER, THE "LAW ENFORCEMENT" APPROACH WHICH SAYS THAT CRIME IS CAUSED BY CRIMINALS AND YOU DEAL WITH IT BY DETERRING, PUNISHING AND INCAPACITATING CRIMINALS;

-- OR, THE "ROOT CAUSES" APPROACH WHICH SAYS THAT CRIME IS CAUSED BY SOCIETAL ILLS AND YOU DEAL WITH IT BY REMEDYING THOSE ILLS THROUGH SOCIAL PROGRAMS.

NOW I BELIEVE IT IS NOT AN EITHER/OR SITUATION. YOU NEED BOTH APPROACHES OPERATING TOGETHER.

WE DO HAVE TO TAKE EFFECTIVE STEPS TODAY TO TRY TO PREVENT

(AS BEST WE CAN) THE YOUTH OF TODAY FROM BECOMING THE VIOLENT CRIMINALS OF TOMORROW.

BUT AT THE SAME TIME, WE DO HAVE TO PROVIDE SAFETY FOR THE CITIZENS OF TODAY. WE CAN PLAN AND HOPE FOR A BETTER SOCIETY FOR TOMORROW, BUT THE CITIZENS OF TODAY DESERVE PROTECTION TODAY.

MY CONCERN IS THAT THOSE WHO ADVOCATE DEALING WITH ROOT CAUSES TEND TO DISMISS THE NEED FOR RELIANCE ON LAW ENFORCEMENT.

THEY PRESENT THEIR PROGRAMS AS ALTERNATIVES TO -- OR A SUBSTITUTE FOR -- TOUGHER LAW ENFORCEMENT.

THEY SAY: "WE SHOULDN'T SPEND MONEY ON MORE POLICE, PROSECUTORS OR PRISONS; WE SHOULD SPEND ON MORE SCHOOLS, HOUSING, ETC."

THE POINT I HAVE BEEN MAKING IS THAT SOCIAL PROGRAMS CANNOT SUBSTITUTE FOR STRONG LAW ENFORCEMENT. ON THE CONTRARY, EFFECTIVE LAW ENFORCEMENT MUST BE THE FOUNDATION FOR ANY EFFORT AT SOCIAL REHABILITATION.

THOSE WHO GIVE SHORT SHRIFT TO THE NEED FOR TOUGHER LAW ENFORCEMENT AND WANT TO PURSUE SOCIAL PROGRAMS AS A SUBSTITUTE ARE MISSING A BASIC POINT.

IN AN ATMOSPHERE OF VIOLENCE AND FEAR, NONE OF THESE SOCIAL PROGRAMS ARE GOING TO BE ABLE TO TAKE ROOT AND SUCCEED.

INDEED, IT IS BECOMING MORE AND MORE CLEAR THAT OUR EFFORTS AT SOCIAL REHABILITATION ARE BEING STRANGLERD BY CRIME ITSELF.

THAT IS WHAT IS HAPPENING TODAY AND WHAT HAS HAPPENED OVER THE PAST 25 YEARS.

THE "ROOT CAUSES" STRATEGY IS NOT NEW. WE HAVE BEEN PURSUING IT FOR 25 YEARS.

WE HAVE INVESTED EVER-INCREASING AMOUNTS IN ATTACKING THE UNDERLYING SOCIAL CONDITIONS. EVERY YEAR SINCE 1965, WE HAVE HAD SUBSTANTIAL INCREASES IN THOSE PROGRAMS SO THAT TODAY THEY STAND AT RECORD LEVELS.

\$290 BILLIONS DOLLARS OF GOVERNMENT SPENDING GOES JUST INTO MEANS-TESTED ANTIPOVERTY PROGRAMS -- THAT COMES TO \$3,100 DOLLARS FOR EVERY TAXPAYER.

I AM NOT SAYING WE SHOULDN'T MAKE AN INVESTMENT. BUT IT IS BECOMING INCREASINGLY CLEAR THAT WE ARE NOT GETTING THE RETURN ON THAT INVESTMENT THAT WE SHOULD.

A LARGE REASON FOR THAT, IS THAT CRIME ITSELF IS OVERWHELMING AND NULLIFYING A LOT OF THOSE EFFORTS.

WE BUILD PUBLIC HOUSING ONLY TO SEE IT TAKEN OVER BY DRUG TRAFFICKERS AND ITS LAW-ABIDING RESIDENTS TERRORIZED BY GANGS.

WE BUILD SCHOOLS ONLY TO SEE THEM BECOME BATTLEFIELDS.

IT IS CLEAR THAT AN ABSOLUTE PREREQUISITE TO THESE SOCIAL PROGRAMS TO WORK IS STRONG LAW ENFORCEMENT.

ATTEMPTS TO ADDRESS UNDERLYING "ROOT CAUSES" MUST BE BUILT ON A FOUNDATION OF A STRONG LAW ENFORCEMENT PROGRAM.

LAW ENFORCEMENT MAY NOT BE THE WHOLE SOLUTION. BUT THERE CAN BE NO SOLUTION WITHOUT EFFECTIVE LAW ENFORCEMENT.

ANOTHER POINT I HAVE BEEN MAKING RELATES TO WHETHER THERE IS ANYTHING THAT LAW ENFORCEMENT CAN DO -- NOT AS SOCIAL WORKERS BUT AS LAW ENFORCEMENT PEOPLE -- TO HAVE AN EFFECT ON VIOLENT CRIME TODAY.

IS THERE SOMETHING WE CAN DO -- ON THE LAW ENFORCEMENT SIDE -- TO ACTUALLY REDUCE THE LEVELS OF VIOLENT CRIME?

I HAVE ARGUED THAT THE ONLY STRATEGY THAT OFFERS ANY REAL PROSPECT OF SUCCESS IS TO INCAPACITATE ^{THE} CHRONIC VIOLENT OFFENDERS.

AN AGGRESSIVE STRATEGY OF

MY PREMISE IS THAT THE VAST BULK OF THE PREDATORY VIOLENCE WE SEE IN OUR SOCIETY IS COMMITTED BY A VERY SMALL GROUP OF INCORRIGIBLE, REPEAT VIOLENT OFFENDERS.

ONE OF THE PRINCIPAL REASONS WE ARE SEEING NO ABATEMENT IN VIOLENCE IS BECAUSE WE ARE NOT DOING AN EFFECTIVE JOB INCAPACITATING VIOLENT OFFENDERS.

INSTEAD, WE ARE SEEING A RELAPSE TO THE REVOLVING DOOR.

HUNDREDS OF THOUSANDS OF VIOLENT OFFENDERS WITH EXTENSIVE CRIMINAL RECORDS ARE BEING CYCLED QUICKLY THROUGH THE SYSTEM -- PREMATURELY RELEASED BACK OUT ONTO THE STREETS TO MAKE ROOM FOR THE NEXT WAVE.

AND THAT IS WHY WE SEE THAT

- VIOLENT OFFENDERS ARE NOW SERVING ONLY 37% OF SENTENCES (THAT IS THE NATIONAL AVERAGE);
- 5 OUT OF 8 VIOLENT PAROLEES ARE RE-ARRESTED WITHIN 3 YEARS;
- IT IS A STAGGERING FACT THAT 30% OF ALL MURDERS ARE COMMITTED BY PERSONS WHO ARE ON BAIL, PROBATION, OR PAROLE.

~~BY AND LARGE, THE POLICE AND PROSECUTORS ARE DOING A SUPERB JOB. THEY ARE BASICALLY ARRESTING AND CONVICTING THE PEOPLE WHO COMMIT THE CRIMES. BUT THE REST OF THE SYSTEM IS LETTING THEM DOWN.~~

I SAW A RECENT SURVEY IN CALIFORNIA THAT SAID 88% OF THE POLICE CHIEFS FEEL THEY ARE ALMOST WASTING THEIR TIME BY ARRESTING CRIMINALS, BECAUSE THEY ARE GOING TO BE RIGHT BACK OUT ON THE STREETS.

I DON'T THINK WE ARE GOING TO BE ABLE TO DO ANYTHING ABOUT VIOLENT CRIME UNTIL WE ADDRESS THIS REVOLVING DOOR PROBLEM.

IN MY VIEW, THE PRIMARY OBJECTIVE IN STRUCTURING OUR CRIMINAL JUSTICE SYSTEM HAS TO BE TARGETING AND INCAPACITATING THE CHRONIC OFFENDER -- STOPPING THE REVOLVING DOOR. THAT'S AN INDISPENSABLE PART OF ANY SOLUTION TO DEALING WITH VIOLENT CRIME.

STOPPING THE REVOLVING DOOR ON VIOLENT OFFENDERS WILL TAKE GREATER COMMITMENT. IT WILL NOT BE DONE THROUGH BUSINESS AS USUAL. IT WILL REQUIRE CHANGE.

SPECIFICALLY, I THINK IT WILL REQUIRE ~~SEVERAL~~ ^{FOUR} THINGS.

DURING THE 1990's

→ FIRST, WE MUST HAVE SUSTAINED INVESTMENT OF RESOURCES IN LAW ENFORCEMENT.

①
RESOURCES

PUBLIC SAFETY DOESN'T COME CHEAP. EVEN THE INNOVATIVE
APPROACHES BEING TALKED ABOUT THESE DAYS -- LIKE COMMUNITY
POLICING, OR ALTERNATIVE SANCTIONS -- REQUIRE RESOURCES IN ORDER
TO BE EFFECTIVE.

AT THE FEDERAL LEVEL, THIS ADMINISTRATION HAS MADE LAW
ENFORCEMENT A BUDGET PRIORITY.

- DOUBLING FEDERAL PRISON CAPACITY;
- TRIPLING ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT;
- AGGRESSIVE DEVELOPMENT AND USE OF ASSET FORFEITURE;
AND
- A 70% INCREASE IN FEDERAL LAW ENFORCEMENT RESOURCES.

I HAVE BEEN STRESSING THE NEED FOR THE SAME KIND OF
COMMITMENT AT THE STATE AND LOCAL LEVEL.

WHEN BUDGETS ARE TIGHT, WE MUST FOCUS ON WHAT TRULY IS
IMPORTANT.

AND, IN THAT REGARD, WE MUST BEAR IN MIND THAT THE FIRST

DUTY OF GOVERNMENT IS TO PROTECT THE PHYSICAL SECURITY OF ITS CITIZENS.

② REFORM
SECOND, WE NEED TO REFORM THE CRIMINAL JUSTICE SYSTEM. ALL THE RESOURCES IN THE WORLD WILL DO LITTLE GOOD, IF THE SYSTEM OPERATES LIKE A SIEVE.

IN THE 1980'S WE DID A GOOD JOB STRENGTHENING THE FEDERAL SYSTEM.

IT IS NOW THE TOUGHEST IN THE COUNTRY.

BUT REFORM ON THE FEDERAL LEVEL WILL HAVE ONLY A LIMITED IMPACT BECAUSE MORE THAN 95% OF VIOLENT CRIME FALLS WITHIN STATE AND LOCAL JURISDICTION.

SO REFORM IS ESSENTIAL AT THE STATE LEVEL.

JLR
IN JULY, I ISSUED A VIOLENT CRIME REPORT THAT CONTAINED 24 RECOMMENDATIONS FOR STRENGTHENING STATE CRIMINAL JUSTICE SYSTEM.

THESE RECOMMENDATIONS WERE DEVELOPED WITH THE ASSISTANCE OF A BROAD, NON-PARTISAN GROUP OF LAW ENFORCEMENT PROFESSIONALS.

WHEN I RELEASED THE REPORT, I WAS JOINED BY ROLAND VAUGHAN, AS WELL AS THE PRESIDENTS OF THE N.D.A.A., THE N.S.A., THE

CHAIRMAN OF CRIMINAL JUSTICE COMMITTEE OF THE N.A.A.G., AND SEVERAL LEADERS OF THE VICTIMS MOVEMENT.

THE RECOMMENDATIONS COVER SUCH THINGS AS EFFECTIVE PRE-TRIAL DETENTION OF DANGEROUS OFFENDERS, TRUTH-IN-SENTENCING, REFORM OF THE JUVENILE JUSTICE SYSTEM, AND, MEASURES TO PROTECT THE VICTIMS' INTERESTS THROUGHOUT THE CRIMINAL JUSTICE PROCESS.

ONE OF THE REASONS WE AS A SOCIETY HAVE NOT DONE A BETTER JOB REFORMING OUR STATE CRIMINAL JUSTICE SYSTEM, IS THAT THERE HAS NOT BEEN A WELL ORGANIZED CONSTITUENCY PRESSING FOR REFORM.

I HOPE THE VIOLENT CRIME REPORT BECOMES A CATALYST FOR GALVANIZING ^A ~~THE~~ BROAD, ULTIMATELY IRRESISTIBLE COALITION PUSHING FOR STRENGTHENING THE CRIMINAL JUSTICE SYSTEM -- A COALITION OF THE LAW ENFORCEMENT COMMUNITY; VICTIMS' ORGANIZATIONS; AND CITIZENS' GROUPS.

AND THIRD, BEYOND RESOURCES AND REFORM -- WE HAVE TO WORK TOGETHER IN LAW ENFORCEMENT TO LEVERAGE AND FOCUS OUR RESOURCES SO WE CAN GET THE BIGGEST BANG FOR THE BUCK.

NOW, THE ADMINISTRATION HAS BEEN VERY AGGRESSIVE, LEANING FORWARD IN THE VIOLENT CRIME AREA.

SECOND GENERAL ASSEMBLY

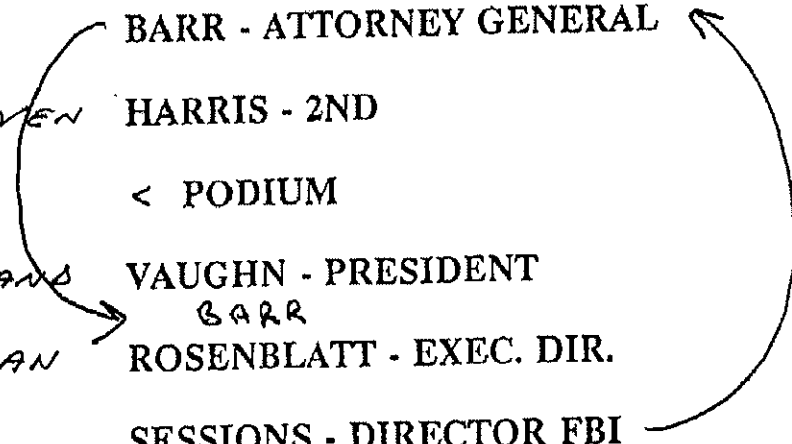
TUESDAY, OCTOBER 27, 1991

DAIS SEATING

- CHARLES* REYNOLDS - PARLIAMENTARIAN
- TES* PEACOCK - SACOP
- A ~~LUCAS - DOJ~~
- GIL* KLEINKNECHT - TREASURER
- U *SANDOR* PINTER - HUNGARIAN NATIONAL POLICE

INTERPRETOR

- D *STANLEY* KNOX - DETROIT
- DAVID* WALCHAK - 5TH VP
- I BONNER - DEA
- SYLVESTER* DAUGHTRY - 3RD VP
- E BARR - ATTORNEY GENERAL
- STEVEN* HARRIS - 2ND
- N < PODIUM
- ROLAND* VAUGHN - PRESIDENT
- C *DAN* ^{BARR} ROSENBLATT - EXEC. DIR.
- SESSIONS - DIRECTOR FBI
- E *LEE* BROWN - IMMED. PAST PRES.
- JOHN* WHETSEL - 4TH VP



~~JAMES~~ ADKIN - WINDSOR

Deputy chief crim. invest. div.

ISTUAN →
BALATON:

~~KACZIBA - HUNGARY, HEAD, CRIM. POLICE~~

NATIONAL
Police

INTERPRETOR

DARRELL SANDERS - 6TH VP

LARRY SMITH - PARADE

MAURICE HANNIGAN - S&P

PETER NUNEZ - TREASURY

REV. MONSIGNOR KIERNAN - INVOCATOR

AS YOU ARE AWARE, IN JULY 1989, THE ATLANTA U.S. ATTORNEY'S OFFICE BEGAN ITS INVESTIGATION OF BNL. BNL, AS YOU KNOW, IS AN ITALIAN BANK WITH A BRANCH IN ATLANTA. THE ATLANTA BRANCH MANAGER WAS AN INDIVIDUAL NAMED CHRISTOPHER DROGOUL.

ON FEBRUARY 28, 1991, AN INDICTMENT WAS RETURNED BY A GRAND JURY IN ATLANTA NAMING DROGOUL AND OTHERS AS DEFENDANTS.

DROGOUL AND THE OTHERS WERE ESSENTIALLY CHARGED WITH MAKING EXCESSIVE OFF-BOOK LOANS TO IRAQIS THEREBY DEFRAUDING BNL AND U.S. BANKING REGULATORS.

IN THE SPRING AND EARLY SUMMER OF 1992, ALLEGATIONS WERE MADE CONCERNING THE DEPARTMENT'S HANDLING OF THE BNL MATTER.

THE THRUST OF THE ALLEGATIONS WAS THAT DEPARTMENT LAWYERS IN WASHINGTON SOUGHT TO OBSTRUCT THE INVESTIGATION AND DELAY THE INDICTMENT.

THESE ALLEGATIONS WERE REVIEWED BY THE DEPARTMENT'S PUBLIC INTEGRITY SECTION AND FOUND TO BE BASELESS.

THIS INVESTIGATION FOUND NO IMPROPRIETY IN THE HANDLING OF THE CASE BY THE DEPARTMENT. SPECIFICALLY, IT FOUND THAT THERE WAS NO POLITICAL INFLUENCE BROUGHT TO BEAR ON THE CAREER PROFESSIONALS HANDLING THE MATTER, AND THE DECISIONS REGARDING

THE PROSECUTION WERE MADE BY CAREER PROSECUTORS FOR PROFESSIONAL REASONS.

IN FACT, THE ALLEGED "DELAY" WAS FOUND TO HAVE BEEN CAUSED LARGELY BY THE EFFORTS OF PROSECUTORS IN WASHINGTON TO FOCUS THE ATLANTA INVESTIGATION ON ALLEGATIONS CONCERNING IRAQ AND BNL-ROME -- EFFORTS WHICH HELPED PRODUCE THE CHARGES AGAINST IRAQI NATIONALS INVOLVED IN THE SCHEME.

ON AUGUST 10, 1992, BASED ON THESE FINDINGS, I REJECTED A REQUEST BY THE DEMOCRATIC MEMBERS OF THE HOUSE JUDICIARY COMMITTEE THAT I SEEK APPOINTMENT OF A STATUTORY INDEPENDENT COUNSEL TO INVESTIGATE VARIOUS ALLEGATIONS RELATING TO THE HANDLING OF THE BNL PROSECUTION.

SINCE I REJECTED THE HOUSE REQUEST, A NUMBER OF EVENTS HAVE TRANSPIRED.

IN MID-SEPTEMBER, THE DROGOUL SENTENCING HEARING TOOK PLACE IN ATLANTA.

LAST FRIDAY, ALLEGATIONS OF IMPROPRIETY WERE MADE IN CONNECTION WITH THE C.I.A.'S AND THE DEPARTMENT'S HANDLING OF CERTAIN CIA DOCUMENTS DURING THE SENTENCING HEARING OF DROGOUL. IN ADDITION, FURTHER C.I.A. DOCUMENTS WERE IDENTIFIED BY THE AGENCY.

AS SOON AS I LEARNED OF THESE DEVELOPMENTS LAST FRIDAY, I ORDERED AN INVESTIGATION, WHICH BEGAN THAT SAME EVENING.

I HAVE NO REASON TO BELIEVE THAT ANY OFFICIALS AT THE DEPARTMENT OF JUSTICE HAVE ACTED IMPROPERLY OR UNPROFESSIONALLY.

INDEED, I HAVE GREAT CONFIDENCE IN THE INTEGRITY OF OUR DEDICATED PROFESSIONALS.

NEVERTHELESS, IN THE CURRENT POLITICALLY CHARGED ENVIRONMENT, NOTHING COULD BE WORSE THAN TO HAVE THIS MATTER TRIED IN THE PRESS BASED ON ALLEGATION, RUMOR AND LEAKS. NO ONE'S INTERESTS ARE SERVED BY CONDUCTING BUSINESS IN THAT WAY PARTICULARLY THOSE OF THE AMERICAN PEOPLE, WHOSE CONFIDENCE IN THE DEPARTMENT AND ITS INVESTIGATIVE PROCESSES IS ESSENTIAL. ACCORDINGLY, I BELIEVE THAT IT IS APPROPRIATE TO ASK SOMEONE FROM OUTSIDE THE DEPARTMENT TO INDEPENDENTLY EXAMINE THIS ENTIRE MATTER.

THEREFORE, TODAY, I AM APPOINTING JUDGE FREDERICK B. LACEY AS AN INDEPENDENT COUNSEL.

THIS APPOINTMENT IS BEING MADE PURSUANT TO EXISTING DEPARTMENT OF JUSTICE REGULATIONS WHICH PROVIDE FOR AN OFFICE OF INDEPENDENT COUNSEL.

JUDGE LACEY HAS HAD A DISTINGUISHED CAREER, AND HAS AN OUTSTANDING AND WELL-EARNED REPUTATION FOR INTEGRITY, PROFESSIONALISM AND FAIRNESS.

MOST RECENTLY, HE HAS WON NATIONAL ACCLAIM FOR HIS WORK IN CLEANING UP THE TEAMSTER'S UNION AS A COURT-APPOINTED INDEPENDENT ADMINISTRATOR.

HE STARTED HIS PUBLIC SERVICE AS A LINE FEDERAL PROSECUTOR FROM 1953 TO 1955.

LATER HE SERVED AS U.S. ATTORNEY IN NEW JERSEY WHERE HE WON A NATIONAL REPUTATION FOR FIGHTING PUBLIC CORRUPTION.

HE SERVED WITH DISTINCTION AS U.S. DISTRICT COURT JUDGE FOR THE DISTRICT OF NEW JERSEY FOR 15 YEARS.

HE ALSO SERVED AS A JUDGE ON THE FOREIGN INTELLIGENCE SURVEILLANCE COURT, AND THUS HAS FAMILIARITY WITH INTELLIGENCE MATTERS.

HE ALSO SERVED CONCURRENTLY AS A JUDGE ON THE TEMPORARY EMERGENCY COURT OF APPEALS AND THUS MAY BE THE ONLY JURIST TO SERVE ON THREE COURTS AT THE SAME TIME.

DURING HIS LAST FOUR YEARS ON THE BENCH, FROM 1982 TO 1986, JUDGE LACEY WAS A MEMBER OF THE JUDICIAL ETHICS COMMITTEE OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

YOU HAVE A COPY OF MY LETTER TO JUDGE LACEY, DATED TODAY.

AS YOU CAN SEE, JUDGE LACEY WILL PERFORM THE FOLLOWING TASKS:

1. INVESTIGATE ALL ASPECTS OF THE PRODUCTION OF CIA DOCUMENTS AND INFORMATION CONCERNING BNL LOANS TO OR ON BEHALF OF IRAQ.
2. REVIEW THE DEPARTMENT'S ENTIRE HANDLING OF THE BNL MATTER.
3. ADVISE ME ON AN ONGOING BASIS CONCERNING THE CONDUCT OF THE DEPARTMENT'S CONTINUING INVESTIGATION AND PROSECUTION OF ALL ASPECTS OF THE BNL CASE.
4. ADVISE ME OF ANY OTHER AREAS WHICH HE FEELS SHOULD BE REVIEWED BASED ON ANY INFORMATION THAT HE LEARNS.
5. SUPERVISE ANY APPLICABLE PRELIMINARY INQUIRIES OR PRELIMINARY INVESTIGATIONS UNDER THE INDEPENDENT COUNSEL STATUTE.

6. AND, ULTIMATELY, PREPARE REPORTS FOR CONGRESS AND THE PUBLIC ON WHAT HE LEARNS IN THE COURSE OF HIS REVIEW.

THE REGULATION UNDER WHICH JUDGE LACEY IS APPOINTED CONFERS ON HIM FULL POWER AND INDEPENDENT AUTHORITY TO EXERCISE ALL INVESTIGATIVE AND PROSECUTORIAL FUNCTIONS AND POWERS OF THE DEPARTMENT OF JUSTICE.

AS MY LETTER TO JUDGE LACEY INDICATES, I AM ALSO ESTABLISHING A TASK FORCE TO CONTINUE TO PURSUE THE PROSPECTIVE ASPECTS OF THE B.N.L. CASE -- INCLUDING, THE PROSECUTION OF CHRISTOPHER DROGOUL, THE CONTINUING INVESTIGATION INTO THE POSSIBLE COMPLICITY OF PERSONS IN BNL-ROME, AND THE POSSIBLE DIVERSION OF BNL LOANS.

THAT TASK FORCE WILL BE SUPERVISED BY A UNITED STATES ATTORNEY WHO WILL REPORT TO THE DEPUTY ATTORNEY GENERAL.

JUDGE LACEY WILL HAVE COMPLETE ACCESS TO ALL THE ACTIVITY OF THAT TASK FORCE AND WILL BE ADVISING ME ON THE CONDUCT OF THAT INVESTIGATION.

I BELIEVE THIS TASK FORCE IS THE BEST WAY TO PROCEED. THE CREATION OF THIS TASK FORCE WILL ADD A GROUP OF PROSECUTORS DRAWN FROM AROUND THE COUNTRY, AND WILL ALLOW THE PROSPECTIVE BNL

INVESTIGATION TO MOVE FORWARD QUICKLY AND THOROUGHLY, AND WITHOUT THE DISTRACTION OF DEFENDING AGAINST CRITICISM OVER PAST PROSECUTIVE DECISIONS.

MOREOVER, WITH THE RECENT WITHDRAWAL OF THE DROGOUL PLEA, WE NOW NEED THE RESOURCES TO CARRY OUT THAT PROSECUTION, AND, AT THE SAME TIME, PURSUE ANY LEADS THAT MAY BE DEVELOPED AS A RESULT OF THE CIA DOCUMENTS THAT THE AGENCY HAS RECENTLY IDENTIFIED.

I WANT TO NOTE THAT THE APPOINTMENT OF JUDGE LACEY DOES NOT PRECLUDE A SUBSEQUENT APPOINTMENT OF A STATUTORY INDEPENDENT COUNSEL IF THAT PROVES WARRANTED.

THE STATUTE CONTEMPLATES A PRELIMINARY INVESTIGATION AS A PRECURSOR TO SEEKING APPOINTMENT OF AN INDEPENDENT COUNSEL.

ONE OF JUDGE LACEY'S RESPONSIBILITIES IS TO SUPERVISE ANY PRELIMINARY INVESTIGATION THAT IS TRIGGERED UNDER THE STATUTE.

THE STEPS I AM ANNOUNCING TODAY ARE INTENDED TO ENSURE A FULL AND COMPLETE INVESTIGATION OF ALL ASPECTS OF THIS MATTER. WE ARE PREPARED TO LET THE CHIPS FALL WHERE THEY MAY.

A NUMBER OF ALLEGATIONS HAVE BEEN LEVELED RECENTLY AT A NUMBER OF THE PROSECUTORS IN THE DEPARTMENT. IF, AS I BELIEVE, THEY HAVE DONE NOTHING WRONG, THEY DESERVE TO BE EXONERATED. IN

THE CURRENT POLITICAL CLIMATE, I HAVE REGRETTABLY CONCLUDED THAT IF I DETERMINE THEY HAVE DONE NOTHING WRONG THEY WILL NOT RECEIVE THAT EXONERATION.

IF JUDGE LACEY FINDS EVIDENCE OF WRONGDOING, SO BE IT. IF NOT, I TRUST THAT THE ATTACKS ON THE INTEGRITY OF THE DEPARTMENT WILL END.

10/17/92 Atlanta J. - Const. A1
1992 WLNR 2338728

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Section: NATIONAL NEWS

EX-JUDGE WILL PROBE BNL SCANDAL ATTORNEY
GENERAL REJECTS CALL FOR SPECIAL PROSECUTOR

Peter Mantius STAFF WRITER

Sidestepping congressional critics, U.S. Attorney General William Barr named his own investigator Friday to look into possible criminal wrongdoing by the CIA, the FBI and the Justice Department in an Atlanta case involving \$5 billion in questionable loans to Iraq.

Mr. Barr appointed retired U.S. District Judge Frederick Lacey, 72, of New Jersey, who will report to him on the politically charged investigation.

The action angered congressional Democrats, who had sought an independent prosecutor this week after reports that the CIA, at the urging of the Justice Department, provided incomplete and misleading information to Atlanta prosecutors and the federal judge overseeing the case.

The Justice Department has come under increasing attack for its investigation and prosecution of the Atlanta branch of Italy's government-owned Banca Nazionale del Lavoro. Prosecutors charge that the branch manager masterminded the scheme to finance the rearming of Iraq before last year's Persian Gulf War.

House Judiciary Committee Chairman Jack Brooks, a combative Democrat from Texas, said Friday that the nation's law enforcement apparatus has "descended into chaos" over the administration's handling of the BNL case.

It was the second time this year that Mr. Barr has fended off a request from Congress for a special prosecutor to investigate the BNL case. A special prosecutor, like the one investigating the Reagan administration's involvement in the Iran-contra case, is appointed by a three-judge panel and acts independently of the attorney general.

"I wish Judge Lacey well, but a truly independent counsel would not have to report to the agency he is investigating," said Rep. Henry Gonzalez (D-Texas), a persistent critic of the department's handling of the case. "Barr clearly wants to control the investigation."

U.S. District Judge Marvin Shoob of Atlanta, who handled the case until recently, said, "I think it would have been more appropriate to have named an independent prosecutor that was not named by Justice."

Mr. Barr said he also would create a new federal task force to continue an investigation into the bank's activities.

Gerrilyn Brill, the acting U.S. attorney in Atlanta who has supervised the case here, said she didn't know whether she or other Atlanta federal prosecutors would be asked to join the task force.

Washington correspondent Scott Shepard contributed to this article.

Photo

Color Photo: Frederick Lacey, 72, a retired U.S. district judge from New Jersey, will report to Attorney General William Barr.

Sidestepping congressional critics, U.S. Attorney General William Barr named his own investigator Friday to look into possible criminal wrongdoing by the CIA, the FBI and the Justice Department in an Atlanta case involving \$5 billion in questionable loans to Iraq.

---- **Index References** ----

Company: BNL BANCA NAZIONALE DEL LAVORO SPA

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Region: (Middle East (1MI23); USA (1US73); Americas (1AM92); New Jersey (1NE70); North America (1NO39); Iraq (1IR87); Arab States (1AR46); Texas (1TE14); Georgia (1GE15))

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Word Count: 562

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NewsRoom

REMARKS OF

**WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES**

**CATHOLIC LEAGUE FOR RELIGIOUS AND CIVIL RIGHTS DINNER
PARK HYATT HOTEL, WASHINGTON, D.C.
OCTOBER 6, 1992**

THANK YOU FOR THAT KIND INTRODUCTION.

BEFORE I BEGIN, I WANT TO THANK THE CATHOLIC LEAGUE AND THE FELLOWSHIP OF CATHOLIC SCHOLARS FOR MAKING THIS REMARKABLE CONFERENCE POSSIBLE.

IT IS AN HONOR FOR ME TO BE HERE THIS EVENING, AND TO FIND MYSELF SPEAKING IN THE CONSIDERABLE WAKE OF TWO LEGENDARY FIGURES LIKE HENRY HYDE AND BILL BALL, MEN WHO HAVE HAD SUCH A PROFOUND IMPACT ON THE LIFE OF OUR NATION -- WHO HAVE DONE SO MUCH TO UPHOLD TRADITIONAL VALUES. I AM HONORED TO BE IN THEIR COMPANY.

THIS YEAR, WE ARE CELEBRATING A TRANSFORMING MOMENT IN THE HISTORY OF THE WORLD -- A DEFINING MOMENT: THE ARRIVAL OF CHRISTOPHER COLUMBUS TO THE NEW WORLD.

AS YOU KNOW, THERE ARE SOME PEOPLE WHO SEE THE YEAR 1492 AS A WATERSHED OF EVIL, THE ONSET OF AN AGE OF BRUTAL IMPERIALISM. THE CRITICS OF COLUMBUS FOCUS ON THE CRUELTY THAT THE EUROPEANS ARE SAID TO HAVE BROUGHT TO THE AMERICAS.

THE TRUTH, OF COURSE, IS THAT -- IN 1492 -- CRUELTY, SLAVERY, AND INJUSTICE WERE NOT NEW TO THESE SHORES. THEY HAVE BEEN PART AND PARCEL OF HUMAN HISTORY IN ALL TIMES AND IN ALL PLACES.

BUT THE EUROPEANS DID BRING SOMETHING THAT WAS NEW. THEY BROUGHT A SET OF BELIEFS -- THE JUDEO-CHRISTIAN TRADITION -- A MORAL CULTURE WHICH PROVIDED A CRITIQUE OF INJUSTICE AND A COMPELLING ACCOUNT OF MAN'S TRUE DIGNITY.

OVER THE CENTURIES, THIS JUDEO-CHRISTIAN TRADITION HAS BEEN THE SINGLE GREATEST CONTRIBUTOR TO THE MATERIAL AND MORAL PROGRESS OF THE HUMAN RACE. AND, IT IS THIS MORAL CULTURE -- WITH ITS NOTIONS OF HUMAN DIGNITY AND RIGHTS -- THAT HAS PRODUCED AND STILL UNDERGIRDS OUR OWN SYSTEM OF SELF-GOVERNMENT. IT IS THE FOUNDATION UPON WHICH THIS GREAT REPUBLIC RESTS.

IT IS GOOD THAT WE ARE HERE TODAY TO REAFFIRM THE GREATNESS OF OUR WESTERN TRADITION, BUT WE MUST ALSO RECOGNIZE THAT -- AS WE MEET -- THIS TRADITION IS GRAVELY THREATENED, AND NOW FACES WHAT MAY BE ITS GREATEST CHALLENGE.

TODAY, I BELIEVE THAT WE ARE IN THE MIDST OF A GREAT MORAL CRISIS.

IT IS -- I THINK -- PRECISELY THE MORAL CRISIS THAT OUR FOUNDING FATHERS FORESAW OVER TWO HUNDRED YEARS AGO -- WHETHER A FREE SOCIETY CAN MAINTAIN THE PUBLIC MORALITY -- AND HENCE, THE PERSONAL MODERATION AND RESTRAINT -- NECESSARY FOR THE SURVIVAL OF A FREE SOCIETY.

I WOULD LIKE TO DISCUSS WITH YOU TODAY THE NATURE OF THIS CRISIS AND WHY I BELIEVE THAT THE SOLUTION PRIMARILY DEPENDS ON A MORAL RENEWAL -- THE REASSERTION OF A MORAL CONSENSUS, AROUND WHICH, AND UPON WHICH, WE CAN REBUILD OUR PUBLIC LIFE AS A COMMUNITY, AND ONCE AGAIN PURSUE THE COMMON GOOD.

THE HEART OF THE CRISIS IS A CONFLICT -- A STRUGGLE -- BETWEEN TWO FUNDAMENTALLY DIFFERENT SYSTEMS OF VALUES.

ON THE ONE HAND, WE ARE SEEING THE GROWING ASCENDANCY OF SECULARISM AND THE DOCTRINE OF MORAL RELATIVISM.

ON THE OTHER HAND, WE ARE SEEING THE STEADY EROSION OF OUR TRADITIONAL JUDEO-CHRISTIAN MORAL SYSTEM.

WHAT ARE THE HALLMARKS OF THE JUDEO-CHRISTIAN MORAL SYSTEM THAT WE SEE IN RETREAT?

THE JUDEO-CHRISTIAN TRADITION HOLDS THAT THERE IS A REAL AND TRANSCENDENT MORAL ORDER -- ABSOLUTE AND OBJECTIVE STANDARDS OF RIGHT AND WRONG THAT EXIST INDEPENDENT OF MAN'S WILL.

THIS TRANSCENDENT MORAL ORDER FLOWS FROM GOD'S ETERNAL LAW -- THE PLAN OF DIVINE WISDOM BY WHICH THE WHOLE OF CREATION IS ORDERED.

MOREOVER, THIS ETERNAL LAW IS IMPRESSED UPON, AND REFLECTED IN, NATURE -- IN ALL CREATED THINGS. THIS IS THE NATURAL LAW.

AND MAN CAN KNOW GOD'S LAW NOT ONLY THROUGH REVELATION BUT ALSO THROUGH THE "NATURAL LAW" WHICH HE CAN DISCERN BY REASON AND EXPERIENCE.

NOW, I WANT TO MAKE THREE BRIEF, BUT IMPORTANT, POINTS ABOUT THIS CONCEPT OF NATURAL LAW.

THE FIRST IS THAT NATURAL LAW -- THESE RULES OF RIGHT AND WRONG WHICH MAKE UP TRADITIONAL MORALITY AND WHICH MODERN SECULARISTS DISMISS AS OTHER-WORLDLY SUPERSTITIONS -- ARE, IN FACT, THE ULTIMATE PRACTICAL, UTILITARIAN RULES FOR HUMAN CONDUCT.

THEY ARE THE RULES THAT ARE THE BEST FOR MAN -- NOT IN THE BY-AND-BY, BUT IN THE HERE AND NOW.

THEY ARE THE RULES THAT ACCORD WITH THE TRUE NATURE OF MAN, AND THEREFORE, ADHERENCE TO THEM PROMOTES WHAT IS GOOD FOR MAN -- MAYBE NOT INSTANT GRATIFICATION, BUT WHAT IS GOOD OVER TIME, BOTH FOR INDIVIDUALS AND FOR HUMAN SOCIETY.

AND, BY THE SAME TOKEN, VIOLATION OF THESE MORAL LAWS HAVE BAD PRACTICAL CONSEQUENCE FOR MAN AND SOCIETY.

WE MAY NOT PAY THE PRICE IMMEDIATELY, BUT EVENTUALLY WE WILL.

THE SECOND POINT I WANT TO MAKE ABOUT NATURAL LAW IS THIS.

BECAUSE HUMAN NATURE IS FALLEN, WE WILL NOT AUTOMATICALLY CONFORM OURSELVES TO GOD'S LAW.

BUT BECAUSE WE CAN KNOW WHAT IS GOOD -- BECAUSE WE CAN DISCERN WHAT IS RIGHT AND WHAT IS WRONG -- WE ARE NOT DOOMED TO BE SLAVES TO OUR PASSIONS AND WANTS. WE CAN TRAIN AND TEACH OURSELVES TO WANT WHAT IS GOOD OR, AT LEAST, TO ADHERE TO WHAT IS GOOD.

AND, A SOCIETY, BECAUSE IT CAN KNOW RIGHT FROM WRONG, HAS THE ABILITY TO SET AND COMMUNICATE MORAL STANDARDS WHICH CAN RESTRAIN THE BAD, AND PROMOTE THE GOOD.

SOCIETY DOES THIS THROUGH MORAL EDUCATION; THROUGH ITS CUSTOMS AND TRADITIONS THAT REFLECT THE WISDOM OF AGES; AND THROUGH ITS FORMAL LAWS -- THE APPLICATION OF NATURAL LAW TO THE CIRCUMSTANCES OF THE DAY.

THROUGH THESE MEANS -- LAW, CUSTOM, AND MORAL EDUCATION -- A SOCIETY FORMS A MORAL CULTURE.

AND, TO THE EXTENT A SOCIETY'S MORAL CULTURE IS BASED ON GOD'S LAW, IT WILL GUIDE MEN TOWARD THE BEST POSSIBLE LIFE.

AND, THE THIRD POINT I WANT TO MAKE ABOUT NATURAL LAW IS THAT IT IS THE ONLY SECURE BASIS FOR HUMAN RIGHTS. A RIGHT CANNOT BE SECURE -- CANNOT BE INALIENABLE -- UNLESS IT EXISTS INDEPENDENT OF THE WILL OF MAN.

THIS, IN A NUTSHELL, IS THE MORAL VISION OF THE JUDEO-CHRISTIAN TRADITION.

BUT WHY SHOULD THE EROSION OF THIS TRADITION CONFRONT US WITH A CRISIS?

WHY SHOULD THIS EROSION HAVE ANY IMPLICATION FOR OUR SYSTEM OF GOVERNMENT AND OUR LAWS?

AS I SAID AT THE OUTSET, IT IS BECAUSE OUR WHOLE SYSTEM OF GOVERNMENT IS PREDICATED UPON THE TRADITIONAL JUDEO-CHRISTIAN MORAL SYSTEM.

THOSE WHO FOUNDED OUR GREAT REPUBLIC CRAFTED THE MOST
MAGNIFICENT LEGAL STRUCTURE IN HISTORY -- THE U.S. CONSTITUTION.

YET THEY KNEW THAT THEIR LEGAL EDIFICE WAS NOT A CASTLE IN
THE AIR.

THE FOUNDERS BELIEVED THAT POPULAR GOVERNMENT AND ITS LAWS
NECESSARILY RESTED UPON AN UNDERLYING MORAL ORDER THAT WAS
ANTECEDENT TO BOTH THE STATE AND TO MAN-MADE LAW.

THEY REFERRED TO THIS TRANSCEDANT MORAL ORDER IN THE
DECLARATION OF INDEPENDENCE AS "SELF-EVIDENT TRUTHS" AND "THE
LAWS OF NATURE AND OF NATURE'S GOD."

FOR A REPUBLIC TO WORK, THE FOUNDER'S THOUGHT, THE PEOPLE
HAD TO BE GUIDED BY INWARDLY-POSSESSED AND COMMONLY-SHARED MORAL
VALUES.

PUBLIC MORALITY WAS ESSENTIAL TO THE SUCCESS OF POPULAR
GOVERNMENT.

THE FATE OF FREE GOVERNMENT WOULD ULTIMATELY DEPEND ON THE
ABILITY OF THE PEOPLE TO MAINTAIN THEIR MORAL COMPASS.

IN THE WORDS OF JAMES MADISON: "WE HAVE STAKED OUR FUTURE

ON THE ABILITY OF EACH OF US TO GOVERN OURSELVES ACCORDING TO THE TEN COMMANDMENTS OF GOD."

AND THE GREATEST THREAT TO FREE GOVERNMENT, THE FRAMERS BELIEVED WAS "LICENTIOUSNESS" -- ABANDONMENT OF JUDEO-CHRISTIAN MORAL RESTRAINTS IN FAVOR OF THE UNBRIDLED PURSUIT OF PERSONAL APPETITES AND SELF-GRATIFICATION -- THE SACRIFICE OF THE COMMON GOOD FOR INDIVIDUAL PLEASURE.

AS FATHER JOHN COURTNEY MURRAY OBSERVED, THE AMERICAN TENET WAS NOT THAT "FREE GOVERNMENT IS INEVITABLE, ONLY THAT IT IS POSSIBLE, AND THAT ITS POSSIBILITY CAN BE REALIZED ONLY WHEN THE PEOPLE AS A WHOLE ARE INWARDLY GOVERNED BY THE RECOGNIZED IMPERATIVES OF THE UNIVERSAL MORAL ORDER."

SO FOR THE FRAMERS THE CHOICE WAS CLEAR: WE WOULD GOVERN OURSELVES THROUGH MORALITY OR WE WOULD LOSE OUR LIBERTY.

IN THE WORDS OF JOHN ADAMS: "WE HAVE NO GOVERNMENT ARMED WITH POWER WHICH IS CAPABLE OF CONTENDING WITH HUMAN PASSIONS UNBRIDLED BY MORALITY AND RELIGION. OUR CONSTITUTION WAS MADE ONLY FOR A MORAL AND RELIGIOUS PEOPLE, IT IS WHOLLY INADEQUATE FOR THE GOVERNMENT OF ANY OTHER."

AND SO, THE FRAMERS VIEWED THEMSELVES AS LAUNCHING A GREAT EXPERIMENT:

COULD A FREE PEOPLE RETAIN A MORAL CULTURE THAT WOULD PROMOTE THE SELF-DISCIPLINE AND VIRTUES NEEDED TO RESTRAIN LICENTIOUSNESS?

OR, WOULD THE MORAL CULTURE DECLINE, VIRTUES GIVE WAY TO VICE, AND THE PEOPLE ULTIMATELY SACRIFICE THE GOOD OF THE COMMUNITY TO THE PURSUIT OF THEIR INDIVIDUAL APPETITES?

WELL, THE FRAMERS GREAT EXPERIMENT IN SELF GOVERNMENT HAS GONE ON FOR OVER 200 YEARS NOW.

AND WE ARE STILL, IN MANY WAYS, "THE SHINING CITY ON THE HILL" FOR THE REST OF THE WORLD.

AND WHAT HAS SUSTAINED US OVER THESE TWO CENTURIES HAS BEEN OUR COMMITMENT TO OUR GREAT MORAL HERITAGE.

BUT, TODAY OUR GREAT EXPERIMENT IN LIBERTY APPEARS THREATENED.

FOR THE LAST THIRTY YEARS, A MORAL CRISIS HAS BEEN BREWING. IT IS UNDENIABLE THAT SINCE THE MID-60S, THERE HAS BEEN A STEADY ASSAULT ON TRADITIONAL VALUES.

WE HAVE LIVED THROUGH 25 YEARS OF PERMISSIVENESS, SEXUAL REVOLUTION, AND THE DRUG CULTURE.

PEOPLE HAVE BEEN ENCOURAGED TO CAST OFF CONVENTIONAL MORALITY AND OLD-FASHIONED RESTRAINTS.

MORAL TRADITION HAS GIVEN WAY TO MORAL RELATIVISM.

UNDER THIS DOCTRINE, THERE ARE NO OBJECTIVE STANDARDS OF RIGHT OR WRONG. EVERY INDIVIDUAL HAS HIS OWN TASTES AND WE SIMPLY CANNOT SAY WHETHER ANY CHOICE IS GOOD OR BAD.

IT IS A VERY SHORT STEP FROM THE PROPOSITION THAT ALL MORALITY IS RELATIVE TO THE PROPOSITION THAT ALL MORALITY RESTS ON THE ASSERTION OF ONE'S OWN WILL.

EVERYBODY WRITES THEIR OWN RULE BOOK. ACCORDINGLY, WE CANNOT HAVE A MORAL CONSENSUS OR A MORAL CULTURE. WE HAVE ONLY THE AUTONOMOUS INDIVIDUAL.

MAN HAS NO ULTIMATE PURPOSE -- NO END OUTSIDE HIMSELF.

AND SO THE OBJECT OF HUMAN LIFE BECOMES SIMPLY THE PURSUIT OF INDIVIDUAL PLEASURE.

THERE WAS A RECENT AND TOPICAL INCIDENT THAT PROVIDES A PITHY SUMMARY OF CONTEMPORARY MORAL PHILOSOPHY. I AM SPEAKING OF WOODY ALLEN'S PUBLIC EXPLANATION OF HIS ONGOING AFFAIR WITH MIA FARROW'S YOUNG ADOPTED DAUGHTER.

SEEMING GENUINELY PUZZLED BY ALL THE FUSS, MR. ALLEN EXPLAINED TO TIME MAGAZINE THAT HE WAS IN LOVE WITH THE GIRL. AND HAVING FALLEN IN LOVE, MR. ALLEN IMPLIED, IT MUST FOLLOW AS NIGHT FOLLOWS DAY, THAT THE TWO OF THEM WOULD CONSUMMATE THEIR LOVE IN SEXUAL INTIMACY. AFTER ALL, HE SAID, "THE HEART WANTS WHAT THE HEART WANTS."

THERE YOU HAVE IT. IN SEVEN WORDS, MR. ALLEN EPIGRAMMATICALLY CAPTURES THE ESSENCE OF CONTEMPORARY MORAL PHILOSOPHY. THE HEART IS PRESENTED AS AN UNREASONING TYRANT OVER WHICH REASON -- AND THEREFORE MORALITY -- HAS NO INFLUENCE.

"THE HEART WANTS WHAT THE HEART WANTS." TRY THAT AS AN INSTRUCTION FOR YOUR CHILDREN WHEN THEY ASK WHETHER A GIVEN COURSE OF CONDUCT IS RIGHT OR WRONG.

TRY IT AS A REASON FOR DISSUADING SOMEONE WHO IS DISPOSED TO TAKE YOUR PROPERTY OR YOUR LIFE.

TRY IT AS A FOUNDATION FOR ANY SORT OF HUMAN BEHAVIOR AND YOU WILL SEE AT ONCE THE DANGER AND MORAL CORRUPTION IT ENTAILS.

"THE HEART WANTS WHAT THE HEART WANTS." THAT, IN ESSENCE, HAS BEEN THE GUIDING PRINCIPLE BEHIND OUR MORAL DECLINE -- THE RALLYING CRY OF THE LONG BINGE THAT BEGAN IN THE MID-60S.

AFTER 25 YEARS OF THIS MORAL UPHEAVAL, WHAT CAN WE SAY ABOUT ITS RESULTS?

HAS IT CONTRIBUTED TO THE SUM TOTAL OF HUMAN HAPPINESS? ARE WE COLLECTIVELY BETTER OFF? DO WE HAVE A HEALTHIER SOCIETY?

LET US LOOK AT THE FRUITS OF THIS NEW AGE.

ALL ABOUT US, WE SEE A GRIM HARVEST:

-- UNPRECEDENTED VIOLENCE; 500% IN 30 YEARS.

-- SOARING JUVENILE CRIME;

-- WIDESPREAD DRUG ADDICTION;

-- SKYROCKETING RATES OF VENEREAL DISEASE;

-- 1.5 MILLION CHILDREN ABORTED EACH YEAR, A THIRD OF THESE ABORTIONS PERFORMED ON TEENAGERS.

-- RECORD PSYCHIATRIC DISORDERS.

AND MANY OF OUR YOUNG PEOPLE --EVEN IN THE MIDST OF MATERIAL WELL-BEING -- SEEM TO BE SINKING INTO LONELINESS AND DESPAIR. TEENAGE SUICIDE HAS NEARLY TRIPLED IN JUST 20 YEARS.

BARBARA BUSH RECENTLY GAVE A STARK EXAMPLE OF THE CHANGES THAT HAVE OCCURRED OVER THE PAST FEW DECADES:

NOT LONG AGO, IN A CALIFORNIA SCHOOL SYSTEM, THE TOP SEVEN PROBLEMS WERE LISTED AS: TALKING OUT OF TURN; CHEWING GUM; MAKING NOISE; RUNNING IN THE HALLS; CUTTING IN LINE; DRESS CODE VIOLATIONS; AND LITTERING.

BY THE 1980'S, IN THE SAME SCHOOL SYSTEM, THE TOP SEVEN PROBLEMS WERE DRUG ABUSE; ALCOHOL ABUSE; PREGNANCY, SUICIDE; RAPE; ROBBERY AND ASSAULT.

THE MOST SIGNIFICANT FEATURE OF CONTEMPORARY SOCIETY HAS BEEN THE BATTERING OF THE FAMILY, AND ITS DISINTEGRATION.

TODAY, IN AMERICA, WE HAVE SOARING ILLEGITIMACY RATES. TODAY, ALMOST 30% OF CHILDREN ARE BORN OUT OF WEDLOCK -- ABOUT A QUADRUPLING IN 25 YEARS.

IN MANY INNER-CITY AREAS, THE ILLEGITIMACY RATE IS AS HIGH AS 80%.

AND AMERICA ALSO NOW HAS AMONG THE HIGHEST DIVORCE RATES -- DIVORCE IS AS COMMON AS MARRIAGE.

AS A CONSEQUENCE OF THIS, WE NOW HAVE THE HIGHEST PERCENTAGE OF CHILDREN LIVING IN SINGLE-PARENT HOUSEHOLDS.

THIS BREAKDOWN OF THE FAMILY IS PARTICULARLY DISTRESSING BECAUSE IT IS THE FAMILY THAT IS THE PRINCIPAL INSTITUTION BY WHICH WE CONDUCT MORAL EDUCATION -- BY WHICH WE TRANSMIT MORAL VALUES FROM GENERATION TO GENERATION.

AS THE FAMILY IS WEAKENED, SO IS OUR ABILITY TO TRANSMIT VALUES TO THE NEXT GENERATION.

AND, IT IS THE BREAKDOWN OF THE FAMILY THAT IS AT THE ROOT OF MOST OF OUR SOCIAL PROBLEMS TODAY.

POVERTY IN AMERICA -- FOR EXAMPLE -- IS LARGELY THE RESULT OF THE BROKEN FAMILY. THE INCIDENCE OF POVERTY AMONG TWO-PARENT FAMILIES IS EXTREMELY LOW.

THE VAST MAJORITY OF THE POOR ARE SINGLE MOTHERS AND THEIR CHILDREN. ALMOST HALF SUCH FAMILIES ARE BELOW THE POVERTY LINE.

I COULD GO ON AND ON ABOUT THE "FRUITS" OF THE NEW SECULAR AGE, BUT I THINK THE POINT IS CLEAR.

THE EFFORT TO DESTROY THE TRADITIONAL MORAL ORDER HAS BROUGHT ON IMMENSE SUFFERING, WRECKAGE, AND MISERY.

ONE PHILOSOPHER DEFINED A "FANATIC" AS SOMEONE WHO, IN THE FACE OF CLEAR FAILURE, REDOUBLES THEIR EFFORTS.

WELL, BY THAT DEFINITION, THE SECULARISTS OF TODAY ARE FANATICS. IGNORING THE TRAGIC RESULTS OF THEIR EXPERIMENT SO FAR, THEY PRESS ON WITH EVEN GREATER MILITANCY.

NOW, THERE HAVE BEEN OTHER TIMES AND PLACES WHERE THE TRADITIONAL MORAL ORDER HAS BEEN SHAKEN, AND SOCIETIES HAVE LAPSED INTO PERIODS OF GREAT LICENTIOUSNESS.

BUT I WONDER WHETHER WE TODAY ARE FACING AN UNPRECEDENTED CHALLENGE.

IN THE PAST, SOCIETIES -- LIKE THE HUMAN BODY -- SEEMED TO HAVE HAD A SELF-HEALING MECHANISM -- A SELF-CORRECTIVE MECHANISM THAT GETS THINGS BACK ON COURSE IF SOCIETY GOES TOO FAR ADRIFT.

THE OPINION OF DECENT PEOPLE REBELS. THESE PEOPLE COALESCE AND RALLY AGAINST THE OBVIOUS EXCESS. ETERNAL TRUTHS ARE REDISCOVERED.

THIS IS THE IDEA OF THE PENDULUM.

WE HAVE ALL THOUGHT: "SOMEHOW THE PENDULUM WILL NATURALLY SWING BACK."

BUT CAN WE BE SURE?

TODAY, WE FACE SOMETHING DIFFERENT THAT MAY MEAN THAT WE CANNOT COUNT ON THE PENDULUM JUST NATURALLY SWINGING BACK.

TODAY, WE FACE THE IMMENSE POWER OF MASS COMMUNICATIONS AND POPULAR CULTURE -- THE MASS MEDIA, THE ENTERTAINMENT INDUSTRY, ACADEMIA.

TODAY, I FEAR THAT THE POWER AND PERVASIVENESS OF OUR HIGH-TECH POPULAR CULTURE NOT ONLY FUELS THE COLLAPSE OF MORALITY BUT ALSO DROWNS OUT THE SCATTERED VOICES RAISED AGAINST SECULARIZATION.

WHEN THOSE WHO SEEK TO RESTORE TRADITIONAL MORALITY STICK THEIR HEADS UP, THEY SUFFER WHAT AMOUNTS TO A SATURATION BOMBING AT THE HANDS OF THE MASS MEDIA.

DISSENTERS FROM SECULARIST DOGMA ARE VICIOUSLY ATTACKED AND HELD UP TO RIDICULE.

IN ADDITION TO MASS POPULAR CULTURE, I AM CONCERNED THERE IS ANOTHER MODERN PHENOMENON THAT MAKES IT HARDER FOR SOCIETY TO RESTORE ITSELF.

IN THE PAST, WHEN SOCIETIES DEVIATE TOO FAR FROM SOUND MORAL PRINCIPLES, THEY END UP PAYING SUCH A HIGH PRICE THAT THEY ULTIMATELY RECOIL AND ARE FORCED TO RE-EVALUATE THE PATH THEY ARE ON.

AS I SAID EARLIER, NATURAL LAW IS THE ULTIMATE UTILITARIAN RULE. IT COMMANDS WHAT IS BEST FOR MAN, AND IF IT IS VIOLATED SOCIETY WILL PAY A PRICE.

SO, VENEREAL DISEASE, IS THE PRICE WE PAY, AMONG MANY OTHERS FOR SEXUAL LICENSE.

VIOLENT JUVENILE CRIME IS A PRICE WE PAY FOR THE BREAKDOWN OF THE FAMILY.

SO, IN THE PAST, SOCIETIES HAVE BEEN DRIVEN BACK TO THEIR SENSES BY THE SHEER COST OF MISCONDUCT.

BUT TODAY, SOMETHING IS NEW. THE STATE -- WHICH NO LONGER SEES ITSELF AS A MORAL INSTITUTION, BUT AS A SECULAR ONE -- TAKES ON THE ROLE AS THE ALLEVIATOR OF BAD CONSEQUENCES. THE STATE IS CALLED UPON TO REMOVE THE INCONVENIENCE AND COSTS OF MISCONDUCT.

SO THE REACTION TO DISEASES AND ILLEGITIMACY IS NOT SEXUAL RESPONSIBILITY BUT HANDING OUT CONDOMS.

AND THE REACTION TO DRUG ADDICTION IS CLEAN NEEDLES.

WHILE WE THINK WE ARE SOLVING PROBLEMS WE ARE ACTUALLY SUBSIDIZING THEM. AND BY LOWERING THE COST OF MISCONDUCT, THE GOVERNMENT PERPETUATES IT.

THE CORROSIVE IMPACT ON SOCIETY CONTINUES. AND, LIKE MOST SOLUTIONS THAT DEAL WITH SYMPTOMS RATHER THAN CAUSES, IT ONLY MAKES MATTERS WORSE.

AND A THIRD PHENOMENON WHICH MAKES IT DIFFICULT FOR THE PENDULUM TO SWING BACK IS THE WAY THE LAW IS BEING USED AS A WEAPON TO BREAKDOWN TRADITIONAL MORALITY AND TO ESTABLISH MORAL RELATIVISM AS THE NEW ORTHODOXY.

THE SECULARISTS ARE USING THE LAW AS A WEAPON IN AT LEAST TWO WAYS.

FIRST, EITHER THROUGH LEGISLATIVE ACTION OR THROUGH LITIGATION AND JUDICIAL INTERPRETATION, SECULARISTS ARE CONTINUALLY SEEKING TO ELIMINATE LAWS THAT REFLECT TRADITIONAL MORAL NORMS.

-- JUST 20 YEARS AGO WE SAW THE LAWS AGAINST ABORTION SWEEP AWAY.

-- AND TODAY WE SEE A CONSTANT CHIPPING AWAY AT LAWS DESIGNED TO RESTRAIN SEXUAL IMMORALITY, OBSCENITY OR TO PROHIBIT EUTHANASIA.

THIS IS SERIOUS BECAUSE OVER TIME, THE CONTENT OF THE LAW PLAYS AN IMPORTANT PART IN FRAMING AND SHAPING THE MORAL CULTURE.

IN OTHER WORDS, MORALITY WILL FOLLOW THE LAW.

WHAT IS MADE LEGAL, WILL ULTIMATELY BECOME VIEWED BY THE PEOPLE AS "MORAL".

THERE IS NO BETTER EXAMPLE OF THIS THAN ABORTION.

PRIOR TO ROE V. WADE, THE VAST MAJORITY OF AMERICANS BELIEVED THAT ABORTION WAS A MORAL EVIL. IT WAS CONSIDERED AN ABOMINATION AND A SCANDAL.

SINCE ROE, THE NUMBER OF AMERICANS WHO CONSIDER ABORTION A MORAL EVIL HAS STEADILY DECLINED.

A SECOND WAY IN WHICH SECULARISTS USE LAW AS A WEAPON IS TO PASS LAWS WHICH AFFIRMATIVELY PROMOTE THE MORAL RELATIVIST VIEWPOINT.

THESE ARE LAWS THAT SEEK TO RATIFY, OR PUT ON THE EQUAL PLANE, CONDUCT WHICH PREVIOUSLY WAS CONSIDERED IMMORAL.

SO, FOR EXAMPLE, YOU SEE LAWS PROPOSED THAT SAY YOU MUST TREAT A COHABITATING COUPLE JUST AS YOU WOULD A MARRIED COUPLE. A LANDLORD CANNOT MAKE A DISTINCTION; HE MUST RENT TO THE FORMER JUST AS YOU WOULD TO THE LATTER.

THIS KIND OF LAW SAYS, IN EFFECT: "WE WILL NOT ALLOW PEOPLE, EITHER BY THEMSELVES OR COLLECTIVELY, TO MAKE MORAL DISTINCTIONS; YOU CANNOT SAY THAT CERTAIN CONDUCT IS GOOD AND ANOTHER BAD. YOU MUST TREAT THEM THE SAME.

ANOTHER RECENT EXAMPLE OF THIS KIND OF LAW WAS THE ONE IN D.C. THAT REQUIRED GEORGETOWN UNIVERSITY TO TREAT HOMOSEXUAL ACTIVIST GROUP JUST AS IT DID OTHER STUDENT GROUPS.

THIS KIND OF LAW DISSOLVES ANY KIND OF MORAL CONSENSUS IN SOCIETY. IT PRECLUDES THE DEVELOPMENT OF A MORAL CULTURE.

THERE CAN BE NO COALESCE OF OPINION BASED ON THE MORAL FEELINGS OF THE COMMUNITY. THERE CAN ONLY BE ENFORCED NEUTRALITY.

PERHAPS THE CLEAREST -- AND MOST ALARMING -- EXAMPLE OF HOW SECULARISTS USE THE LAW TO PROMOTE THEIR AGENDA IS IN THE AREA OF EDUCATION.

OVER THE PAST 25 YEARS, PUBLIC SCHOOLS HAVE UNDERGONE WHAT AMOUNTS TO A MORAL LOBOTOMY.

THROUGH A SERIES OF MISGUIDED COURT OPINIONS, SECULARIZATION HAS BEEN TAKEN TO THE POINT WHERE THERE CAN NO LONGER BE ANY MORAL CONTENT IN PUBLIC EDUCATION.

BUREAUCRATS AND SECULAR ACTIVISTS HAVE FILLED THIS VACUUM WITH CURRICULA THAT AFFIRMATIVELY PROMOTE MORAL RELATIVISM AND AT TIMES, ACTIVELY ENCOURAGE LICENTIOUSNESS.

IN PURSING THIS AGENDA, THE STATE HAS SOUGHT TO DISMINISH THE ROLE OF THE PARENT AND ENCOURAGE CHILDREN TO GO BEHIND THEIR PARENTS' BACKS.

AND SO, WE SEE, FOR EXAMPLE, IN NEW YORK'S CONDOM DISTRIBUTION PROGRAM, STUDENTS TOLD THEY HAVE A "SEXUAL BILL

OF RIGHTS" INCLUDING THE RIGHT "WHETHER TO HAVE SEX AND WHO TO HAVE IT WITH", AND THEY ARE ENCOURAGED TO BYPASS THEIR PARENTS, IF THEY NEED HELP.

AND, ACCORDING TO JOHN LEO, OF U.S. NEWS & WORLD REPORT, HERE IN D.C., THE CITY'S PUBLIC HEALTH COMMISSIONER OVERRODE THE ARRANGEMENT ALLOWING PARENTS TO EXEMPT THEIR CHILDREN FROM CONDOM PROGRAMS, ORDERING SCHOOL NURSES TO DISREGARD THE PARENTS.

HOW, THEN, IN THE FACE OF SUCH A PERVASIVE POPULAR CULTURE AND A POWERFUL STATE, WHICH COMBINE TO PROMOTE MORAL RELATIVISM AND, SUPPRESS OPPOSITION -- CAN WE BE CONFIDENT THAT THE PENDULUM WILL SWING BACK?

SO, YOU SEE, TODAY 500 YEARS AFTER COLUMBUS'S VOYAGE, ON THE VERGE OF THE THIRD MILLENNIUM, WE ARE ALSO AT A DEFINING MOMENT.

WE ARE NO LONGER SURE OF WHO WE ARE AS A PEOPLE. WE HAVE NO SHARED "PUBLIC PHILOSOPHY."

WE ARE LIVING IN A "POST-MODERN", POST-COMMUNIST, POST-IDEOLOGICAL WORLD -- AN AGE WITHOUT A NAME OF ITS OWN.

HOW CAN WE, AS A SOCIETY, REGAIN OUR MORAL COMPASS?

I'VE PAINTED A BLEAK PICTURE, BUT NOT TO SUGGEST THAT THERE IS NO HOPE.

INSTEAD, TO SUGGEST THAT WE ARE NOT GOING TO RECLAIM THE MORAL HERITAGE OF OUR SOCIETY WITHOUT A FIGHT.

THERE IS A BATTLE GOING ON THAT WILL DECIDE WHO WE ARE AS A PEOPLE AND WHAT NAME THIS AGE WILL ULTIMATELY BEAR.

WE CANNOT SIT BACK AND JUST HOPE THAT SOMEHOW THE PENDULUM IS GOING TO SWING BACK TOWARD SANITY.

WE ARE GOING TO HAVE TO STRUGGLE TO ACHIEVE THE MORAL RENEWAL OF OUR COUNTRY.

THOSE HERE TONIGHT ARE COMMITTED TO THE JUDEO-CHRISTIAN VALUES THAT HAVE MADE OUR COUNTRY GREAT.

AND WE KNOW THAT THE FIRST THING WE HAVE TO DO TO RENEW OUR COUNTRY IS TO ENSURE THAT WE ARE PUTTING OUR PRINCIPLES INTO PRACTICE IN OUR OWN PERSONAL DAILY LIVES.

WE UNDERSTAND THAT ONLY BY TRANSFORMING OURSELVES, CAN WE TRANSFORM THE WORLD OUTSIDE OURSELVES.

WE MUST ALSO PLACE THE GREATEST EMPHASIS ON THE MORAL EDUCATION OF OUR CHILDREN.

THERE CAN BE NO MORAL RENAISSANCE UNLESS WE SUCCEED IN PASSING TO THE NEXT GENERATION OUR FAITH AND OUR VALUES IN FULL VIGOR.

IF EVER THERE WAS A TIME FOR THE RESURGENCE OF RELIGIOUS EDUCATION, IT IS TODAY.

I THINK WE SHOULD DO ALL WE CAN TO PROMOTE AND SUPPORT RELIGIOUS EDUCATION AT ALL LEVELS.

AND, FINALLY, WE MUST STAND READY TO FIGHT FOR OUR VALUES, AND TO DEFEND THEM VIGOROUSLY WHEN THEY COME UNDER ATTACK.

WE MUST SPEAK OUT WITH CONFIDENCE AND AUTHORITY ABOUT WHAT IS RIGHT AND WRONG. THOSE OF YOU WHO TEACH; THOSE OF YOU WHO PRACTICE LAW; THOSE OF YOU IN THE MEDIA -- MUST SPEAK OUT.

OURS IS A TIME FOR SOBER REFLECTION, AND AS WE PONDER WITH OUR FELLOW CITIZENS HOW BEST TO RECONSTITUTE OUR PUBLIC LIFE, WE WOULD DO WELL TO RECALL THE WORDS OF THAT GREAT FRIEND OF AMERICA, EDMUND BURKE WHO WROTE: "MEN ARE QUALIFIED FOR CIVIL LIBERTY, IN EXACT PROPORTION TO THEIR DISPOSITION TO PUT MORAL CHAINS UPON THEIR OWN APPETITES, -- IN PROPORTION AS THEIR LOVE

OF JUSTICE IS ABOVE THEIR RAPACITY, -- IN PROPORTION AS THEIR SOUNDNESS AND SOBRIETY IS ABOVE THEIR VANITY AND PRESUMPTION. SOCIETY CANNOT EXIST UNLESS A CONTROLLING POWER BE PLACED SOMEWHERE; AND THE LESS OF IT THERE IS WITHIN, THE MORE THERE MUST BE WITHOUT. IT IS ORDAINED IN THE ETERNAL CONSTITUTION OF THINGS THAT MEN OF INTEMPERATE MINDS CANNOT BE FREE. THEIR PASSIONS FORGE THEIR FETTERS."

FRANKLY, I AM ENCOURAGED TO SEE SO MANY PEOPLE HERE TONIGHT.

TOGETHER WE CAN MAKE A DIFFERENCE. NOTHING IS WRITTEN IN STONE -- NEITHER DECLINE NOR TRIUMPH, NEITHER THE RISE NOR THE FALL OF NATIONS. TOGETHER, I BELIEVE THAT WE CAN CHANGE THE WORLD.

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Section: FEATURES MAGAZINE / PEOPLE

U.S. ATTORNEY GENERAL ASSAILS WOODY ALLEN

W. Speers, INQUIRER STAFF WRITER

This story includes information from the Associated Press, the New York Post and the New York Daily News.

Woody Allen, who's taken heavy shelling from Mia Farrow and her friends, got more Tuesday night from Attorney General William P. Barr, who told a Washington gathering of conservative Roman Catholics that the filmmaker's latest real-life drama is a "pithy summary" of the nation's moral decline. "Genuinely puzzled over the fuss, Mr. Allen explained to Time magazine that he was in love with the girl (Soon-Yi Farrow Previn)," Barr said before the Catholic League for Religious and Civil Rights and the Fellowship of Catholic Scholars. "Having fallen in love, Mr. Allen implied it must follow as night follows the day that the two of them would consummate their love. After all, he said, the heart wants what the heart wants. Try that as an instruction for your children when they ask you if a particular course of conduct is good or bad." Barr called Allen's comment "licentiousness" adding that it "captures the essence of contemporary moral philosophy that . . . has been . . . behind our moral decline . . . (since) the mid-'60s."

In other spiritual matters, the Vatican has cleared the way for consideration of late New York Cardinal Terence Cooke as a saint. Cooke's successor, Cardinal John O'Connor, made the announcement Tuesday, the ninth anniversary of Cooke's death. "There has been great interest in this cause . . ." an archdiocesan spokesman said. Some people have claimed miraculous cures through Cooke's intercession.

COUPLES

* Elizabeth Taylor reveals that she and Larry Fortensky do not use condoms "at the present moment" and are checked regularly for AIDS. In the November issue of Vanity Fair mag, on whose cover the actress appears holding a condom, she adds: "If you're in a monogamous relationship for a certain amount of time and are true to each other and have tested negative a couple of times for AIDS, I think you're safe." Her friend songwriter Carole Bayer Sager called Taylor's union with Fortensky her "first truly sober marriage."

Victoria Jackson, ex-Saturday Night Live ditz, will marry Bill Guthy Dec. 20. He's helping Victoria Principal market her line of cosmetics.

Lisa Marie Presley, 25, and husband, musician Danny Keough, 28, are expecting their second child. Danielle was born in May 1989.

Odd couple of the week: Timothy Leary and Rita Jenrette. He, 1960s Grand Wazoo? She, exhibitionist ex-wife of a congressman done in by the Abscam scandal and later a Playboy overexposure? They got most friendly at a recent Manhattan do honoring Dr. Tim. Did he get her number. "Oh yes," said Leary.

THE MOVIE SET

* The rarely interviewed Robert De Niro has been dragged kicking and screaming into a series of interrogations by media types because he has a movie to hype, *Night and the City*, opening Oct. 23. But the results are as quirky as ever. A USA Today reporter asked what his most prized possession is. "I can't answer that," said the movie star. "That's like asking what kind of bubble gum I chew." You talkin' ta me?!

SICK-BAY REPORT

* A manic-depressive disorder has forced Kristy McNichol, 29, off the TV series *Empty Nest*. "She is following her doctor's advice to take it easy," said the show's executive producer Tony Thomas, adding that McNichol suffers from extreme mood swings that leave her exhausted. It's not known how long McNichol will be gone from the show. Her character's absence will be explained as an undercover assignment. In 1989, the actress told how an emotional breakdown almost ended her career.

Illinois Gov. Jim Edgar, 46, is due to leave a Springfield hospital today after undergoing an angioplasty Tuesday to clear a blocked artery. He complained of chest pains while exercising 1 1/2 weeks ago.

LOCALLY CONNECTED

* Larry Gatlin was in Bristol yesterday to announce that his musical, *Alive and Well*, set to premiere at the Bristol Riverside Theater next spring, has been delayed until spring 1994. And for the best of reasons. The country star has signed to succeed Mac Davis early next year in the title role of the hit Broadway musical, *The Will Rogers Follies*. He also acknowledged that his show needs work ("we got about 60 tunes and got to get it down to 20 to 25"). But he also noted: "For eight months I'll only be 90 miles away, so it'll be easy for me to get down here to work on it."

Are you interested in hearing Larry Kane's insights on the presidential elections? But of course, you are. He'll talk about them Oct. 22 at 7 p.m. at Congregation M'Kor Shalom, 850 Evesham Rd., Cherry Hill. Ten bucks to get in.

MARKINGS

* Here's a way to make a positive out of Sinead O'Connor's ripping display on TV Saturday night. Send any of her LPs to the National Ethnic Coalition of Organizations - which represents 66 ethnic groups nationally - and it'll donate \$10 to charity. "We think she went too far," said NECO head Bill Fugazy. "She shouldn't desecrate the picture of a world religious leader." The address: 555 Madison Ave., 12th floor, N.Y., N.Y. 10022.

A bunch of celebs are circulating a letter on behalf of William Kunstler, who seemed to defend every counter-cause of the '60s, to help the lawyer pay a \$43,000 fine. The letter, signed by Spike Lee, Oliver Stone, Robert De Niro, Ossie Davis and Ruby Dee, says Kunstler was fined by "a Reagan-Bush federal judge" for bringing a frivolous lawsuit. Kunstler, 74, filed a civil rights suit for some North Carolina residents who received threats for raising funds for two Indians on trial there. "I was kind of surprised," Kunstler said. "I've never had a committee like this in my life."

PHOTO

PHOTO (3)

1. Elizabeth Taylor's "first truly sober marriage" is how Carole Bayer Sager describes the union between La Liz and Larry Fortensky. (Life Magazine / HARRY BENSON)
2. Robert De Niro has a new movie out, "Night and the City," and is grudgingly facing the press.
3. Kristy McNichol is on leave from "Empty Nest."

NEWSMAKERS

---- Index References ----

News Subject: (Legal (1LE33); Judicial (1JU36); Social Issues (1SO05))

Industry: (Consumer Products & Services (1CO62); Personal Care & Beauty Aids (1PE87))

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NewsRoom

CATHOLIC LAWYERS GUILD
N.Y.

ST. THOMAS MORE
AWARD

Thank you, your Eminence.

I would like to thank you and all of my colleagues in the law for this honor.

Many of you who are here today are leading lights of the bar who have long been staunch champions of our Church here in New York. What makes this a special honor for me is the occasion to join with such a distinguished group today.

Some of you took time today because we have worked together over the years, and I want to thank you as friends and colleagues. It means a lot to me that you are here.

[Introduction of family.]

I would like to say a few words as to why I think it is more important than ever that we support Catholic education.

I grew up by Columbia where both my parents taught, and I had the privilege of attending Corpus Christi parochial school at 121st and Broadway.

I later went to Horace Mann and Columbia University, but – as I have reflected over the years -- there is no doubt that, beyond my parents, the greatest force in my formation was Corpus Christi.

We are here today because we believe that every parent who wishes to educate their children within the Catholic tradition should have that opportunity. And that means we must do all we can to support scholarships.

One obvious reason why Catholic education merits our support is represented here today by our student speaker. What a great representative of our students. In purely secular terms, Catholic schools have had an unsurpassed record in educating young people. And, in particular, for those children who don't already have all the privileges, our schools have a spectacular record of achievement in providing a firm foundation for success.

But there are deeper reasons why Catholic education is so important today.

Today we live in a dominant culture that is becoming ever more secular and actively hostile – even militantly hostile -- to our faith and to the values which we believe individuals – and society as a whole – should live by.

The influence of the popular culture is intense and pervasive.

It seems to me that the principal challenge we face as a Church is the corrosive power of this culture, and especially its capacity to subvert the religious outlook and values we seek to instill in our young people.

If we are to pass to the next generation the Catholic faith in its full vigor, we cannot allow ourselves to be swamped by this secular culture.

Parents obviously play the key role. But they need the support of institutions that support their values, not actively work against them. And that is why we need Catholic schools there – to help them.

The culture around us has increasingly embraced the concepts of “moral relativism.” In too many places, it has really become the official dogma of secular institutions, including our public schools.

All too often, what is called “education” today within secular institutions has come to involve the deliberate cultivation of a skeptical and relativistic outlook in young people.

The basic mindset is that there really is no such thing as objective, absolute truth – or, if there is, we really have no way of knowing or discerning it. Everybody has their own opinion and we cannot say whether anybody’s opinion is right or wrong.

In this morally sterile environment, what passes for education today is really just “vocational training” -- the conveying of the technical knowledge and skill needed to make a living in one’s job

But, it seems to me that this is not what education should be about. .

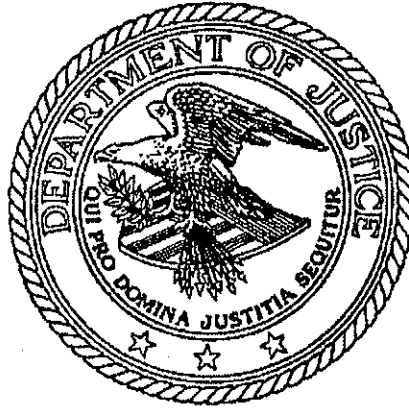
Isn’t education about leading our children to the recognition that there is such a thing as Truth, and helping them develop the faculties to discern and love the truth and the discipline to live by it?

At the end of the day, isn’t education really about moral formation? -- conveying to our children “What is it to live a good life?” And doesn’t this task require helping children learn the truth about themselves and how they fit into the universe? And doesn’t that also require coming to an understanding that life has a purpose, and it is this ultimate purpose that tells us how we should live?

The Duke of Wellington used to say: “Educate men without religion and you make but clever devils.”

There is much wisdom in that statement. The view that you can somehow hermetically segregate education from faith and religion is an illusion.

It seems to me that the predicate of any real educational process must be recognition that there is “Objective Truth.” There is a real universe out there, and we can know it. Perhaps not perfectly. But through reason, through personal and



REMARKS BY

WILLIAM P. BARR

ATTORNEY GENERAL OF THE UNITED STATES

TO

THE PENNSYLVANIA STATE-WIDE L.E.C.C. CONFERENCE

SEPTEMBER 30, 1992

THANK YOU FOR THAT KIND INTRODUCTION. IT'S A REAL PLEASURE TO JOIN THE LAW ENFORCEMENT COMMUNITY OF PENNSYLVANIA HERE TODAY -- TO SEE SO MANY FRIENDS.

AS ATTORNEY GENERAL, I'VE SAID THAT I WANTED THE HALLMARK OF MY TENURE TO BE TEAMWORK. NOT ONLY TEAMWORK WITHIN THE FEDERAL GOVERNMENT -- WHICH IS SOMETHING WE HAVE TO DO MORE OF -- BUT, PARTICULARLY, TEAMWORK WITH OUR STATE AND LOCAL COLLEAGUES.

IN THIS ERA OF TIGHT BUDGETS, IT IS CRITICAL THAT WE ALL TRY TO WORK TOGETHER AND POOL OUR RESOURCES SO THAT EACH OF US CAN HAVE A MAXIMUM EFFECT IN OUR AREA OF RESPONSIBILITY. I THINK THAT THE MOST SIGNIFICANT DEVELOPMENT IN LAW ENFORCEMENT THIS PAST DECADE HAS BEEN PRECISELY THIS -- THE INCREASE IN COOPERATION AND DEVELOPING PARTNERSHIPS.

NOWHERE HAS THAT BEEN MORE APPARENT THAN HERE IN PENNSYLVANIA. THERE ARE VERY HIGH-CALIBER LAW ENFORCEMENT PEOPLE AT THE STATE AND LOCAL LEVELS. AND OF COURSE, THE L.E.C.C. HAS PLAYED A CRITICAL ROLE IN HELPING TO BRING THIS ABOUT.

I AM GLAD TO BE HERE TODAY TO JOIN YOU IN THIS CONFERENCE AND SHOW MY STRONG SUPPORT FOR THE L.E.C.C., AS WELL AS MY CONTINUING COMMITMENT TO DO ALL I CAN TO STRENGTHEN COOPERATION AMONG ALL LAW ENFORCEMENT.

I'D LIKE TO SHARE SOME THOUGHTS WITH YOU TODAY ABOUT VIOLENT CRIME. I DON'T THINK THERE IS A MORE GRAVE PROBLEM THAT WE HAVE TO FACE IN OUR SOCIETY.

WE TEND TO BECOME PREOCCUPIED WITH THE NEWS OF THE DAY -- EVENTS IN THE MIDDLE EAST, THE WAYS OF FOREIGN POLICY, THE LATEST TURN IN THE BUSINESS CYCLE, AND SO FORTH -- AND WE TEND TO FOCUS ON WHAT'S BEFORE US AT THE TIME.

BUT WHEN YOU STEP BACK AND LOOK AT WHAT HAS HAPPENED IN OUR SOCIETY, I DON'T THINK THAT THERE IS A MORE PROFOUND OR APPALLING DEVELOPMENT THAN THE EPIDEMIC OF VIOLENCE THAT HAS GRIPPED OUR SOCIETY THROUGH THE PAST 30 YEARS.

OVER THE PAST 30 YEARS, VIOLENT CRIME IN OUR SOCIETY HAS INCREASED BY 500%. THAT IS STAGGERING. IT DWARFS WHAT IS HAPPENING IN OTHER SOCIETIES AROUND THE WORLD. THINGS WERE NOT ALWAYS THAT WAY.

PRIOR TO 1960, CRIME LEVELS FLUCTUATED, BUT STAYED WITHIN REASONABLE BOUNDS. THE 30 YEARS LEADING UP TO 1960, THE HOMICIDE RATE WAS ACTUALLY DECLINING STEADILY. IT WAS IN 1960 THAT WE STARTED SEEING THIS EXPLOSION. 400% OF THAT INCREASE TOOK PLACE IN THE 60S AND 70S, AND THE REMAINDER HAS TAKEN PLACE OVER THE PAST 11 YEARS. WE HAVE SEEN IN THE EARLY 80S A DECREASE AT TIMES, AND THEN IN 1986, A CONTINUED MOVEMENT UPWARD.

THIS LATEST INCREASE IN VIOLENT CRIME REALLY IS BEING DRIVEN BY THREE FACTORS.

FIRST, THERE IS A CLEAR CORRELATION WITH THE CRACK EPIDEMIC, STARTING IN 1986-87. I DON'T VIEW CRACK AS A ROOT CAUSE OF VIOLENT CRIME. I THINK BOTH DRUGS AND CRIME ARE SYMPTOMS OF A DEEPER PROBLEM. BUT THERE IS NO DOUBT THAT THE PHENOMENON OF CRACK HAS CONTRIBUTED TO THE INCIDENTS OF VIOLENCE.

THE SECOND FACTOR DRIVING IT HAS TO BE FOUND IN THE BREAKDOWN OF THE FAMILY. OVER THE PAST 25 YEARS, THE OTHER STARTLING DEVELOPMENT IN AMERICAN SOCIETY HAS BEEN THE BREAKDOWN OF THE FAMILY, MORE THAN TRIPLING THE NUMBER OF SINGLE PARENT FAMILIES. IN MANY OF OUR CITIES 70 - 80% OF THE CHILDREN ARE BORN INTO FAMILIES WITHOUT FATHERS. MUCH OF THIS BREAKDOWN -- IN MY VIEW -- HAS BEEN DIRECTLY CONTRIBUTED TO BY OUR SOCIAL POLICIES OVER THE PAST 25 YEARS. NOW THE CHICKENS ARE COMING HOME TO ROOST. WE HAVE MANY CHILDREN WHO HAVE NOT BEEN BROUGHT UP IN STABLE HOME ENVIRONMENTS WITH VALUES AND GUIDANCE. THAT IS WHY, I THINK TODAY, WE ARE SEEING THE INCREASE IN JUVENILE CRIME AND THE EMERGENCE OF THE GANG PROBLEM.

ON THE PLANE HERE FROM OKLAHOMA CITY, I LOOKED AT A FRONT PAGE STORY IN THE DALLAS MORNING NEWS. IT WAS A POLL OF THE PEOPLE IN DALLAS ABOUT WHAT THEY THOUGHT WAS CAUSING VIOLENT CRIME. 52% SAID "DRUGS"; 38% SAID "POVERTY"; 25% SAID "THE BREAKDOWN OF THE

FAMILY"; AND 14% SAID "THE REVOLVING DOOR."

I THINK POVERTY IS A CONTRIBUTING FACTOR TO VIOLENT CRIME, BUT I THINK THAT THE ARGUMENT THAT POVERTY IS ONE OF THE PRINCIPAL CAUSES OF VIOLENT CRIME IS VERY OVERSTATED. THE CORRELATION BETWEEN CRIME AND FAMILY STATUS IS EXTREMELY STRONG, THAT IS THE NUMBER ONE CORRELATE IN VIOLENT CRIME -- FAMILY STATUS.

THE CORRELATION BETWEEN POVERTY AND CRIME IS RELATIVELY LOW. IN 1950, FOR EXAMPLE, THE POVERTY RATE WAS 32% -- TODAY THE POVERTY RATE IS 13.5%. AND YET, OBVIOUSLY VIOLENT CRIME WAS AT FAR LOWER LEVELS THROUGHOUT THE 50S WHEN WE HAD MUCH HIGHER POVERTY. THE SAME IS TRUE WITH THE DEPRESSION, WHERE ALMOST HALF OF THE POPULATION LIVED UNDER THE POVERTY LINE AS WE NOW DEFINE IT. AND YET, VIOLENT CRIME LEVELS WERE MUCH LOWER.

BUT EVEN ACCEPTING POVERTY AS A CONTRIBUTOR TO CRIME, THE FACT OF THE MATTER IS THAT POVERTY IN ITSELF IS MORE OF A SYMPTOM THAN A ROOT CAUSE. BECAUSE THE NUMBER ONE CORRELATE OF POVERTY AGAIN IS FAMILY STATUS.

I THINK IT IS STAGGERING WHEN YOU LOOK AT THE FIGURES: AMONG MARRIED COUPLES WITH CHILDREN, ONLY 7% LIVE UNDER THE POVERTY LEVEL. BUT OF SINGLE PARENT FAMILIES, 44.5% ARE UNDER THE POVERTY LINE AND 70-80% OF THOSE FAMILIES RECEIVE SOME FORM OF GOVERNMENT ASSISTANCE. SO I THINK ONE OF THE REASONS WE HAVE POVERTY IS THE

BREAKING DOWN OF THE FAMILY UNIT AND THE ECONOMIC ADVANTAGES OF THAT UNIT.

THE THIRD FACTOR IS A RELAPSING INTO REVOLVING DOOR JUSTICE. WE ARE SEEING THE SATURATION OF OUR CRIMINAL JUSTICE SYSTEM, PARTICULARLY AT THE STATE LEVEL, AND MANY STATES ARE REVERTING TO REVOLVING DOOR JUSTICE IN ORDER TO DEAL WITH THE VOLUME OF CRIME. VIOLENT CRIMINALS ARE SERVING LESS TIME THROUGHOUT THE NATION AND REAPPEARING ON THE STREETS PREMATURELY, WHERE THEY VICTIMIZE MORE PEOPLE.

WHAT CAN WE DO ABOUT VIOLENT CRIME? IS THERE A SOLUTION? I THINK THAT THERE IS SOMETHING THAT WE CAN DO -- THE QUESTION IS HOW WILLING ARE WE TO DO IT? THE FIRST THING I WANT TO DO IS TRY TO CLEAR THE AIR ABOUT SOMETHING THAT I THINK IS A FALSE DICHOTOMY IN THE DEBATE ABOUT DEALING WITH VIOLENT CRIME.

BASICALLY, THE PUBLIC DISCUSSION HAS TWO APPROACHES. YOU HEAR THE "GET-TOUGH-ON-CRIME" APPROACH THAT SAYS WE HAVE TO FOCUS ON THE CRIMINAL, GET TOUGH ON THE CRIMINAL, DETER THE CRIMINAL, PUNISH THE CRIMINAL, AND INCAPACITATE THE CRIMINAL.

THEN YOU HAVE WHAT I CALL THE "ROOT CAUSES" APPROACH WHICH SAYS CRIME IS CAUSED BY SOCIETAL ILLS, AND THAT THE WAY TO ULTIMATELY DEAL WITH VIOLENT CRIME IS TO DEAL WITH THOSE SOCIETAL

ILLS AND ATTACK THE "ROOT CAUSES" WITH SOCIAL PROGRAMS.

AS I'VE SAID BEFORE, THAT IS NOT AN EITHER-OR SITUATION. BOTH APPROACHES ARE NECESSARY -- IT IS A QUESTION OF MIXING THEM AND FINDING THE RIGHT BALANCE.

OBVIOUSLY, WE HAVE TO DO SOMETHING TODAY TO INTERVENE AND TRY TO SALVAGE OUR YOUTH SO THEY DO NOT BECOME THE HARD-CORE CRIMINALS OF TOMORROW. BUT AT THE SAME TIME, WE DO HAVE TO PROVIDE SAFETY FOR THE CITIZENS OF TODAY. WE CAN PLAN AND HOPE FOR A BETTER SOCIETY FOR TOMORROW.

MANY OF THE PROGRAMS WE HAVE IN PLACE MAY LEAD TO A BETTER SOCIETY IN 5, 10, 15, 25 YEARS, BUT THE CITIZENS OF TODAY DESERVE PROTECTION TODAY.

I'M AFRAID THE SOCIAL PROGRAMS APPROACH DISMISSES THE NEED FOR RELIANCE ON STRONGER LAW ENFORCEMENT, AND PRESENTS THEIR PROGRAMS AS ALTERNATIVES TO LAW ENFORCEMENT. THEY SAY, "LAW ENFORCEMENT HASN'T REALLY DONE THE JOB, WE SHOULD REALLY FOCUS OUR RESOURCES ELSEWHERE." THEY TEND TO GIVE SHORT SHRIFT TO LAW ENFORCEMENT.

THIS APPROACH IS VERY WRONG. IT RAISES THE BASIC POINT THAT ALL THESE SOCIAL PROGRAMS ARE GOING TO FAIL UNLESS WE HAVE STRONG LAW ENFORCEMENT AS A FOUNDATION. ONE OF THE PROBLEMS WE HAVE TODAY IS A LOT OF OUR SOCIAL PROGRAMS HAVE BEEN STRANGLING BY VIOLENT

CRIME ITSELF.

WE'VE BEEN FOLLOWING THE "ROOT CAUSES" STRATEGY FOR 25 YEARS -
- THAT'S WHAT THE ANTI-POVERTY PROGRAMS ARE ALL ABOUT.

WE ARE SPENDING -- JUST IN MEANS-TESTED PROGRAMS -- RECORD AMOUNTS. THE GOVERNMENT IS NOW SPENDING \$290 BILLION, UP FROM \$106 JUST 12 YEARS AGO. A RECORD PERCENTAGE OF THE GROSS DOMESTIC PRODUCT -- IS NOW GOING INTO MEANS-TESTED PROGRAMS. IT COMES TO \$3,100 PER TAXPAYER -- THAT'S WHAT WE ARE PUSHING RIGHT NOW INTO DEALING WITH ROOT CAUSES.

THAT DOESN'T EVEN TAKE INTO ACCOUNT THE NON-MEANS-TESTED PROGRAMS IN EDUCATION AND HOUSING, AND WHEN YOU ADD THOSE IN YOU ARE TALKING ABOUT SEVERAL THOUSANDS OF DOLLARS PER TAXPAYER JUST TO WAGE THIS WAR. I'M NOT SAYING WE SHOULDN'T MAKE THAT INVESTMENT. BUT PART OF THE REASON WE ARE NOT GETTING THE RETURN ON OUR INVESTMENT IS BECAUSE WE ARE NOT DEALING ADEQUATELY WITH THE CRIME PROBLEM FIRST.

WHAT GOOD IS IT TO BUILD PUBLIC HOUSING, ONLY TO LET IT BE USED AS STASH HOUSING FOR DRUGS? WHAT GOOD IS IT TO SPEND OUR MONEY ON EDUCATION AND BUILD MODEL SCHOOLS IF THE SCHOOLS ARE RUN BY GANGS? WE NEED A STRONG LAW ENFORCEMENT RESPONSE TO GET THE RETURN WE NEED ON THE INVESTMENT.

WE HAVE TO WAGE A WAR ON THE OTHER FRONT AS WELL -- THAT'S THE LAW ENFORCEMENT SIDE. IS THERE ANYTHING THAT LAW ENFORCEMENT CAN DO WITHIN ITS AREA OF RESPONSIBILITY -- NOT AS SOCIAL WORKERS BUT AS LAW ENFORCEMENT PEOPLE -- TO HAVE AN EFFECT ON VIOLENT CRIME TODAY FOR CITIZENS?

WITH OUR SCARCE RESOURCES, WE HAVE TO FOCUS ON THE CHRONIC VIOLENT OFFENDER, BECAUSE A LARGE PROPORTION OF PREDATORY CRIME IN OUR SOCIETY IS CAUSED BY A VERY SMALL GROUP OF CHRONIC VIOLENT OFFENDERS. AND THESE ARE THE PEOPLE WHO ARE INCREASINGLY BEING LET OUT PREMATURELY FROM PRISON. IF THEY ARE INCAPACITATED, HELD IN PRISON FOR LONGER PERIODS OF TIME, THE CRIME RATE WILL GO DOWN.

WHEN YOU OPEN UP THE NEWSPAPERS THESE DAYS AND READ ABOUT THE VICIOUS CRIMES, YOU'LL SEE THAT THESE ARE NOT COMMITTED BY NOVICES. THEY ARE COMMITTED BY PEOPLE WHO HAVE LONG CRIMINAL HISTORY RECORDS, AND INCREASINGLY, THEY ARE COMMITTED BY PEOPLE WHO ARE ACTUALLY UNDER JUDICIAL SUPERVISION AT THE TIME THE CRIME WAS COMMITTED.

I THINK IT IS A STARTLING FACT IN THIS COUNTRY THAT 30% OF ALL MURDERS -- 6,500 CITIZENS A YEAR -- ARE COMMITTED BY PEOPLE WHO ARE ON BAIL, PROBATION, OR PAROLE AT THE TIME OF THE MURDER.

I'M SURE YOU'VE ALL HEARD ABOUT THE CARJACKING IN WASHINGTON. THERE WAS A YOUNG MOTHER TAKING HER TWO YEAR-OLD CHILD TO SCHOOL IN

THE MORNING BEFORE SHE WENT TO WORK. SHE LIVED IN A SUBURBAN COMMUNITY IN WASHINGTON, NOT A HIGH CRIME AREA. SHE STOPPED AT A STOP SIGN AND TWO YOUTHS PULLED HER OUT OF HER CAR, TOOK HER CAR. SHE BECAME ENTANGLED IN HER SEAT BELT, AND THEY TOOK OFF IN HER CAR WITH THE CHILD STILL IN THE CARSEAT. THEY DRAGGED HER FOR OVER A MILE AND A HALF. THEY BANGED UP AGAINST OBSTACLES TO TRY AND SHEAR HER AWAY FROM THE CAR, AND BY THE TIME SHE DID FALL OFF, SHE WAS DEAD FROM MASSIVE INTERNAL INJURIES. AND THEN, THEY THREW THE CHILD OUT OF THE CAR. FORTUNATELY, THE TWO YEAR-OLD SURVIVED. WHEN THEY WERE ARRESTED -- FINALLY AFTER A TWO MILE CAR CHASE -- AND WERE BEING BOOKED, THEY BLEW KISSES AT THE FEMALE OFFICER WHO WAS AT THE POLICE STATION.

ONE SUSPECT WAS A 26 YEAR OLD WITH A 1983 ARREST FOR ROBBERY FOR WHICH HE HAD BEEN GIVEN PROBATION. HE WAS THEN ARRESTED A SUBSEQUENT TIME; HIS PROBATION WAS REVOKED. HE SERVED ONLY A BRIEF PERIOD OF TIME. HE WAS THEN ARRESTED IN 1991 FOR ASSAULT WITH INTENT TO KILL FOR SHOOTING SOMEONE IN THE FACE. THOSE CHARGES WERE DROPPED, AND FIVE MONTHS LATER HE WAS ARRESTED FOR DISTRIBUTION OF HEROIN AND COCAINE.

HE WAS RELEASED INTO A PROGRAM CALLED "OPERATION PROGRESS." UNDER THIS OPERATION, HE STAYED HOME WITH ELECTRONIC MONITORING AND WAS GIVEN URINALYSIS TESTS TWICE A WEEK TO SEE IF HE HAD GONE BACK ON DRUGS.

THEN, WHILE HE WAS IN THIS PROGRAM, A FEW MONTHS LATER, HE WAS AGAIN ARRESTED ON THE STREET FOR DISTRIBUTING HEROIN AND COCAINE. AND WHAT HAPPENED? THE JUDGE LET HIM OUT ON \$5000 BAIL, BUT BECAUSE HE DIDN'T HAVE ANY MONEY, HE DIDN'T HAVE TO PUT UP ANYTHING AND WAS LET OUT WITHOUT PAYING A DIME.

JUST A COUPLE OF WEEKS LATER, THIS INCIDENT OCCURRED.

SO, "OPERATION PROGRESS" MAY HAVE BEEN PROGRESS FOR SOMEBODY, BUT IT CERTAINLY WASN'T "PROGRESS" FOR THE WOMAN WHO WAS MURDERED AND CARJACKED.

I THINK THE PRINCIPAL REASON WE CONTINUE TO SEE THIS INCREASE IN VIOLENT CRIME IS THAT WE ARE NOT DEALING EFFECTIVELY WITH THE REVOLVING DOOR.

THE POLICE AND PROSECUTORS ARE DOING A SUPERB JOB IDENTIFYING, APPREHENDING, AND CONVICTING THOSE RESPONSIBLE FOR CRIME, BUT THEIR EFFORTS ARE BEING NULLIFIED BY THE REST OF THE PROCESS. A LACK OF ADEQUATE OF JAIL AND PRISON SPACE IS A REASON FOR THIS HAPPENING. SO, AROUND THE NATION WE ARE SEEING SHORTER AND SHORTER PRISON TERMS SERVED.

THIS ADMINISTRATION HAS BEEN TARGETING CHRONIC OFFENDERS, INCAPACITATING THEM THROUGH INCARCERATION, AND EXPANDING PRISON SPACE SO THERE IS SUFFICIENT CAPACITY TO DEAL WITH VIOLENT

OFFENDERS.

I'M NOT SAYING WE OUGHT TO THROW EVERYONE IN PRISON AND THROW AWAY THE KEY. PRISON SPACE IS VALUED AND COSTS A LOT OF MONEY, AND IF WE ARE PUTTING PEOPLE IN PRISON WHO DON'T BELONG THERE -- WHO ARE NOT A CONTINUING THREAT TO SOCIETY -- WE SHOULDN'T BE WASTING THE PRISON SPACE ON THOSE PEOPLE.

PRISON STAY SHOULD BE FIRST AND FOREMOST FOR VIOLENT OFFENDERS.

THIS ADMINISTRATION HAS BEEN PUTTING ITS MONEY WHERE ITS MOUTH IS. IT HAS DOUBLED FEDERAL PRISON CAPACITY IN THE FIRST THREE YEARS OF THE ADMINISTRATION. BY 1995, IT WILL HAVE TRIPLED SINCE 1980.

AND WE'VE BEEN INCREASING OUR SUPPORT TO STATE AND LOCAL LAW ENFORCEMENT -- NOW A THREE-FOLD INCREASE.

THERE HAS BEEN A 70% INCREASE IN THE DEPARTMENT OF JUSTICE'S BUDGET ALONE, MEANING MORE PROSECUTORS, MORE AGENTS, AND SO FORTH. THERE HAS BEEN A SUSTAINED COMMITMENT TO LAW ENFORCEMENT AND PUTTING THOSE RESOURCES DOWN THAT ARE NECESSARY. THAT HAS TO BE MATCHED AT A STATE LEVEL.

THERE HAVE BEEN CRITICISMS OF THIS ARGUMENT. SOME SAY,

"GETTING TOUGH DOESN'T WORK. WE HAVE TO DO SOMETHING ELSE." THE SAME CAN BE SAID FOR THE SOCIAL PROGRAMS OF THE PAST 25 YEARS -- "THEY HAVEN'T WORKED" -- BUT LET'S PUT THAT ASIDE.

THE FACT IS THAT WE HAVEN'T REALLY TRIED GETTING TOUGH IN THIS COUNTRY RECENTLY. G.K. CHESTERTON ONCE SAID THAT IT IS NOT THAT CHRISTIANITY HAS BEEN TRIED AND FOUND WANTING, IT JUST HAS NEVER BEEN TRIED. I THINK THE SAME CAN BE SAID FOR STRONG LAW ENFORCEMENT.

IN THE 1980S WE GOT TOUGHER, BUT WE REALLY DID ABOUT HALF OF THE JOB THAT WAS NECESSARY. BUT EVEN THOSE HALF STEPS THAT WE TOOK ARE MORE IMPORTANT. THAT IS PART OF THE REASON WE SAW A 400% INCREASE IN TWO DECADES AND THEN A SIGNIFICANT DROP IN THE TRAJECTORY INCREASE IN THE 1980S.

BUT OF COURSE THE CRITICISM THAT IS BEING MADE MISSES THE POINT ALTOGETHER, BECAUSE THE ISSUE ISN'T WHETHER CRIME IS STILL GOING UP -- THE ISSUE IS WHERE WOULD CRIME BE EXCEPT FOR THOSE STEPS THAT HAVE BEEN TAKEN?

I DON'T THINK ANYONE CAN SERIOUSLY ARGUE THAT IT WOULD BE SAFER TODAY IF WE HAD STOPPED FOLLOWING THOSE TOUGH POLICIES.

DURING THE 1980S WE ADDED 500,000 PEOPLE TO THE PRISON SYSTEM. I DON'T THINK ANYONE CAN ARGUE THAT WE ARE GOING TO BE SAFER IF

THOSE 500,000 PEOPLE WERE BACK ON THE STREETS. NOW, SOME PEOPLE SAY WE ARE TOO PUNITIVE. THEY SAY WE'RE JUST LIKE THE SOVIET UNION AND SOUTH AFRICA -- WE HAVE SO MANY PEOPLE IN PRISON, AND THIS IS SHAMEFUL TO THE UNITED STATES.

WHAT IS SHAMEFUL TO THE UNITED STATES IS THE CRIME LEVEL -- NOT THE INCARCERATION. THE FACT IS, WE ARE NOT TOO PUNITIVE IN THIS COUNTRY. THE CHANCES OF GOING TO PRISON IN THIS COUNTRY ARE EXACTLY THE SAME AS THEY ARE IN THE UNITED KINGDOM, CANADA, AND OTHER DEMOCRACIES. WHAT'S DIFFERENT IS NOT THE CHANCES OF GOING TO PRISON IF YOU COMMIT A CRIME, IT IS THAT THERE ARE A LOT MORE PEOPLE COMMITTING CRIMES IN THE UNITED STATES.

IN FACT, WE ARE FAR LESS PUNITIVE TODAY THAN WE WERE IN THE 1950S. THERE IS AN INDEX CALLED THE EXPECTED PRISON INDEX FOR CRIMES WHICH TAKES INTO ACCOUNT THE LIKELIHOOD OF GOING TO PRISON AND THE LENGTH OF PRISON SENTENCE YOU WOULD SERVE FOR A CRIME.

IN 1959, THE PRISON INDEX FOR EXPECTED IMPRISONMENT FOR THE AVERAGE CRIME WAS 93 DAYS. BY 1975, IT WAS 14 DAYS. AFTER ALL WE HAVE DONE IN THE 1980S TO REVERSE THAT, WE ARE NOW AT 20 DAYS. SO, WE ARE FAR LESS PUNITIVE THAN WE WERE IN THE 1950S.

THEN THERE ARE THOSE WHO SAY THAT WE CAN'T AFFORD IT -- TIMES ARE TOUGH -- WE CAN'T AFFORD TO PUT THE RESOURCES INTO LAW ENFORCEMENT. I THINK WE CAN'T AFFORD NOT TO.

INVESTMENT IN LAW ENFORCEMENT IS A GOOD INVESTMENT, AND THE COST TO SOCIETY FOR FAILING TO INVEST IS FAR HIGHER. AS COSTLY AS IT IS TO KEEP A VIOLENT CRIMINAL BEHIND BARS -- WHETHER IT BE \$15,000-20,000 A YEAR -- IT IS MUCH MORE COSTLY TO SOCIETY TO LET THAT PERSON GO FREE. EVERY STUDY THAT HAS BEEN DONE DEMONSTRATES THAT CLEARLY.

YOU KNOW THE COSTS OF VIOLENT CRIME TO SOCIETY -- DIRECT ECONOMIC COSTS ARE OVER \$100 BILLION. THE COST OF THE REVOLVING DOOR ITSELF, POLICE AND PROSECUTORS, THE COURT SYSTEM TO COME BACK AND BACK AND BACK AGAIN TO THE SAME PERSON IN THE SYSTEM IS A VERY COSTLY WAY OF OPERATING THE SYSTEM.

AND THINK OF THE COSTS OF PRIVATE SECURITY SYSTEMS AND BARS -- IF WE DON'T PAY TO PUT THE BARS AROUND THE VIOLENT OFFENDERS, THEN THE CITIZENS HAVE TO PAY TO PUT BARS AROUND THEMSELVES. THEN THE COSTS ALL THE WAY THROUGH OUR SOCIETY, THE MACRO SOCIAL COSTS -- THE LOST JOBS, THE LOST OPPORTUNITIES, THE LOST REVENUES, FAILED BUSINESSES -- THAT CRIME GENERATES.

IN NUMEROUS OTHER CONTEXTS IN OUR SOCIETY, WE ARE WILLING TO SPEND -- YOU NEVER HEAR PEOPLE POOR-MOUTH ABOUT NOT ENOUGH MONEY TO SPEND WHEN IT COMES TO THINGS LIKE ENVIRONMENTAL PROGRAMS.

THEY ARE WILLING TO SPEND TENS OF BILLIONS OF DOLLARS SCRUBBING THE AIR WITH SCRUBBERS. BILLIONS OF DOLLARS REMOVING

ASBESTOS FROM BUILDINGS -- BILLIONS OF DOLLARS ON THE AUTO INDUSTRY TO INSTALL SAFETY DEVICES, AIR BAGS OR SOMETHING ELSE -- TENS OF BILLIONS OF DOLLARS ON HIGHWAY SAFETY BARRIERS -- AND ALL THE OTHER THINGS WE PUT INTO TRYING TO PREVENT PREMATURE DEATH OR AVOID THE RISK OF DEATH.

IN MANY PROGRAMS WE SPEND MILLIONS OF DOLLARS FOR EACH LIFE SAVED. AUTO INSPECTION PROGRAMS -- \$12.5 MILLION IS SPENT ON AUTO INSPECTIONS FOR EACH LIFE SAVED. ON THE AVERAGE, THESE PROGRAMS COST \$2.6 BILLION FOR EACH LIFE SAVED.

IF WE STARTED USING THIS COST-BENEFIT ANALYSIS FOR LAW ENFORCEMENT, WE WOULD BE SPENDING ABOUT 5 TIMES AS MUCH ON LAW ENFORCEMENT AND CORRECTIONS AS WE ARE SPENDING TODAY.

ALTERNATIVE SANCTIONS IS A BIG TRENDY ITEM THESE DAYS. I'M ALL FOR IT FOR NON-VIOLENT OFFENDERS AS A WAY OF SAVING PRISON SPACE FOR VOLENT OFFENDERS. THERE ARE SOME PEOPLE WHO MAY BENEFIT FROM THIS KIND OF ALTERNATIVE SANCTION AND MAY NOT POSE A RISK TO SOCIETY. BUT THE FACT IS THAT WE ALREADY HAVE ALTERNATIVE SANCTIONS -- SINCE 3 OUT OF 4 PEOPLE WHO ARE OFFENDERS AREN'T IN CUSTODY.

IF THESE SANCTIONS ARE DONE PROPERLY, AND THEY ADEQUATELY PROTECT THE COMMUNITY, THEY ARE JUST AS COSTLY AS PUTTING PEOPLE IN PRISON.

I'M CONCERNED THAT POLITICIANS WHO DO NOT WANT TO MAKE THE INVESTMENT IN LAW ENFORCEMENT VIEW ALTERNATIVE SANCTIONS AS SORT OF A COVER -- THEY CAN MOVE PEOPLE OUT OF PRISON AND PUT THEM INTO THE COMMUNITY WITHOUT HAVING TO INVEST EITHER IN THE PAROLE SYSTEM, IN INTERMEDIATE SANCTIONS, OR IN THE PRISON SYSTEM. THAT IS HAPPENING FREQUENTLY -- INVESTMENT IS NOT BEING MADE TO MAKE IT SUCCESSFUL.

IN PENNSYLVANIA, THERE IS ROOM FOR GROWTH IN THE LAW ENFORCEMENT BUDGET. IN CORRECTIONS, PENNSYLVANIA IS SPENDING A LOT LESS THAN THE NATIONAL AVERAGE -- IN 1990, 1.8% OF THE BUDGET, AND OF THE NATIONAL AVERAGE, THE STATE IS PAYING 2.4% OF THE BUDGET. PENNSYLVANIA HAS RELATIVELY LOW INVESTMENT WHEN YOU LOOK AT IT NATIONALLY. FOR ITS LAW ENFORCEMENT BUDGET -- GENERALLY, THE POLICE, PROSECUTORS, AND CRIMINAL JUSTICE SYSTEM -- PENNSYLVANIA RANKS 33RD IN TERMS OF THE PERCENT OF ITS BUDGET; IT RANKS ABOUT THE SAME FOR INVESTMENT PER CAPITA. THE AVERAGE INVESTMENT IS ABOUT 6.7% OF THE AVERAGE BUDGET NATIONALLY, AND PENNSYLVANIA IS 5.4%

SO THE FIRST THING WE ARE GOING TO NEED TO DO, IF WE ARE GOING TO INCAPACITATE THESE OFFENDERS, IS TO INVEST.

THE SECOND THING IS TO REFORM THE SYSTEM, BECAUSE ALL THE NEW RESOURCES IN THE WORLD WON'T MAKE MUCH DIFFERENCE IF WE HAVE A SIEVE AT THE OTHER END OF THE SYSTEM. WE ARE GOING TO HAVE TO TIGHTEN UP THE SYSTEM AND THE LEGAL PROCESS. WE HAVE DONE THAT

GENERALLY -- IN THE 80S WITH JUDICIAL APPOINTMENTS, WHICH HAVE MADE A BIG DIFFERENCE IN THE STATE AND LOCAL LAW AND THE ABILITY OF OUR CRIMINAL JUSTICE SYSTEM OVER THE PAST ELEVEN YEARS. WE HAVE ALSO DONE SOME LEGISLATIVE REFORM -- PRETRIAL DETENTION, ABOLITION OF PAROLE, MANDATORY MINIMUM SENTENCING -- SO I THINK MOST OF YOU WOULD AGREE THAT THE FEDERAL SYSTEM IS THE TOUGHEST LAW ENFORCEMENT SYSTEM IN THE NATION.

WE NEED TO HAVE THE STATES FOLLOW SUIT AND TOUGHEN UP THEIR SYSTEMS AS WELL, BECAUSE THAT IS WHERE MOST OF THE VIOLENT CRIME OCCURS.

IT WAS THAT THINKING THAT GENERATED THE VIOLENT CRIME REPORT. IT WAS PRODUCED BY A BI-PARTISAN GROUP FROM ALL SEGMENTS OF LAW ENFORCEMENT AND WHEN IT WAS RELEASED, I WAS JOINED BY THE PRESIDENT OF THE NATIONAL DISTRICT ATTORNEYS ASSOCIATION, THE VICE-CHAIRMAN OF THE STATES ATTORNEYS GENERAL CRIMINAL JUSTICE COMMITTEE, THE PRESIDENT OF THE I.A.C.P., THE PRESIDENT OF THE NATIONAL SHERIFF'S ASSOCIATION, AND VARIOUS VICTIMS GROUPS. SINCE THAT TIME, N.O.V.A., THE LARGEST VICTIMS GROUP IN THE COUNTRY HAS ALSO ENDORSED THE REPORT. THE REPORT GIVES SOME RECOMMENDATIONS AS A BLUEPRINT FOR REFORM AT THE STATE LEVEL, AND IT HELPS EXPLAIN TO THE AVERAGE CITIZEN WHAT THE CRIMINAL JUSTICE SYSTEM SHOULD BE AND WHAT CAN BE DONE TO STRENGTHEN IT.

FINALLY, IN ADDITION TO THE RESOURCES AND REFORM, I THINK WE

ARE GOING TO NEED UNPRECEDENTED COOPERATION IN TARGETING OUR RESOURCES WHERE THEY WILL DO THE MOST GOOD.

YOU ALL ARE AWARE OF THE THINGS WE HAVE BEEN TRYING TO DO IN A PARTNERSHIP WITH YOU AND OUR STATE AND LOCAL LAW ENFORCEMENT COLLEAGUES TO ATTACK THE CHRONIC VIOLENT OFFENDER. FOR EXAMPLE, I THINK THE TRIGGERLOCK PROGRAM HAS BEEN VERY SUCCESSFUL NATIONALLY. THERE IS INCREASING ANECDOTAL EVIDENCE THAT VIOLENT CRIMINALS ARE CHANGING THEIR ACTIVITIES, BECAUSE THEY ARE AFRAID OF GETTING BUSTED UNDER TRIGGERLOCK AND SERVING FEDERAL TIME.

OUR ANTI-GANG TASK FORCES ARE STARTING TO TAKE EFFECT. GANGS ARE STARTING TO BE TAKEN DOWN ACROSS THE NATION.

OUR WEED AND SEED PROGRAM WAS REALLY BORN HERE IN PHILADELPHIA, AND A PRODUCT OF THE COOPERATION THAT EXISTS HERE IN PENNSYLVANIA AND SPECIFICALLY IN PHILADELPHIA. THE WEED AND SEED PROGRAM IS NOW GOING ON IN 20 CITIES, AND ALL THE INITIAL RETURNS ARE VERY ENCOURAGING.

I JUST GOT WORD FROM SANTA ANA, WHERE IT'S JUST BEEN IN EFFECT A SHORT TIME. THEY ARE A HIGH CRIME AREA, YET CRIME HAS DROPPED FROM THIS SUMMER (COMPARED TO LAST SUMMER) BETWEEN 30 AND 70% IN ALL CATEGORIES OF CRIME. WE LOOKED AT THE SURROUNDING AREAS TO SEE IF CRIME WAS SIMPLY BEING DISPLACED, AND IT TURNS OUT THAT THE SURROUNDING AREAS HAVE ALSO SEEN DECREASES IN CRIMES -- SO A CARRY-

OVER RATHER THAN A DISPLACEMENT OCCURRED.

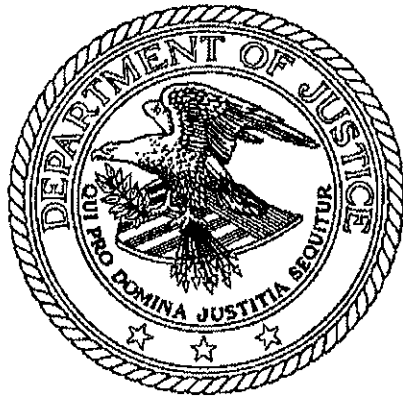
IN SUM, MY VIEW IS THAT SOCIAL PROGRAMS ARE NOT A SUBSTITUTE FOR STRONG LAW ENFORCEMENT, ALTHOUGH THE TRENDY POSITION TODAY IS THAT WE HAVE TO BE PURSUING MORE OF THESE SOCIAL PROGRAMS. HOWEVER, IT CANNOT BE AT THE EXPENSE OF LAW ENFORCEMENT.

WE HAVE TO FOCUS ON INCAPACITATING VIOLENT CRIMINALS AND DO ALL WE CAN TO STOP THE REVOLVING DOOR. AND THAT WILL TAKE RESOURCES, REFORM, AND UNPRECEDENTED COOPERATION. IT WILL TAKE PROGRAMS LIKE WEED AND SEED WHICH INTEGRATE OUR SOCIAL SPENDING WITH OUR LAW ENFORCEMENT SPENDING.

IF WE DO ALL THOSE THINGS, WE CAN START THE LONG, DIFFICULT JOURNEY OF BRINGING THOSE VIOLENT CRIME RATES UNDER CONTROL. THIS PROBLEM TOOK 30 YEARS TO GET HERE. THESE PROBLEMS DIDN'T GROW UP OVERNIGHT. THEY TOOK DECADES TO GROW UP. THEY WILL TAKE A LONG TIME TO SOLVE. BUT THIS IS THE AGENDA -- AND THE ONLY AGENDA, REALLY -- THAT HAS ANY PROSPECT OF BRINGING DOWN THE LEVEL OF VIOLENCE IN THE NEAR FUTURE.

THANK YOU.

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REMARKS BY

WILLIAM P. BARR

ATTORNEY GENERAL OF THE UNITED STATES

TO THE

COMMONWEALTH CLUB

SAN FRANCISCO, CALIFORNIA

SEPTEMBER 29, 1992

THANK YOU, BETTY, FOR YOUR KIND INTRODUCTION. JUSTICE MARIEL, IT'S A PRIVILEGE TO BE SHARING THE DAIS WITH YOU.

I WOULD LIKE TO INTRODUCE SOME OF MY COLLEAGUES FROM THE JUSTICE DEPARTMENT WHO ARE HERE TODAY. OUR NEW U.S. ATTORNEY JOHN MENDEZ, THE SPECIAL AGENT IN CHARGE HERE IN SAN FRANCISCO, RICHARD HELD, AND THE ASSISTANT ATTORNEY GENERAL IN WASHINGTON IN CHARGE OF OUR CRIMINAL DIVISION BOB MUELLER ARE HERE TODAY.

WELL I AM HONORED TO HAVE THIS OPPORTUNITY TO SPEAK BEFORE THIS DISTINGUISHED AND PREMIER FORUM, ONE THAT IS SO INVOLVED IN THE CRITICAL ISSUES OF THE DAY. WHAT I WANT TO TALK TO YOU ABOUT TODAY IS ONE OF THE MOST CRITICAL ISSUES FACING OUR COUNTRY -- THE PROBLEM OF VIOLENT CRIME. OUR SOCIETY TENDS TO BE PREOCCUPIED WITH THE NEWS OF THE DAY -- WHETHER IT BE A FOREIGN POLICY CRISIS OR THE LATEST TURN IN THE BUSINESS CYCLE. BUT, WHEN YOU STEP BACK AND YOU LOOK OVER THE PAST 30 YEARS THERE IS NO DEVELOPMENT THAT IS MORE APPALLING OR MORE PROFOUND THEN THE EPIDEMIC OF VIOLENCE THAT HAS GRIPPED OUR SOCIETY.

NOW IT WASN'T ALWAYS THIS WAY. PRIOR TO 1960, VIOLENT CRIME IN OUR COUNTRY STAYED WITHIN REASONABLE BOUNDS. IN FACT, FOR THE 30 YEARS LEADING UP TO 1960, THE HOMICIDE RATE HAD BEEN STEADILY DECLINING IN THE UNITED STATES. BUT, THEN, IN THE 1960'S THINGS WENT OUT OF CONTROL. IN THE PAST 30 YEARS VIOLENT CRIME IN OUR

SOCIETY HAS GONE UP ABOUT 500 PERCENT. THAT'S A STAGGERING FACT. MOST OF THIS INCREASE OCCURRED IN THE 60'S AND 70'S, WHEN VIOLENT CRIME WENT UP 400 PERCENT IN THOSE TWO DECADES. AND IN THE PAST 11 YEARS IT'S GONE UP THE REMINDER. SO THE BAD NEWS IS IT'S GONE UP 500 PERCENT. THE GOOD NEWS IS THAT THE RATE OF INCREASE HAS BEEN DECREASING. ALTHOUGH IT'S INTOLERABLY HIGH AND IS STILL GOING UP -- AND THE MOST PROMINENT FEATURE OF VIOLENT CRIME NOW IS THAT IT IS SPREADING INTO COMMUNITIES WHERE IT HAS NEVER BEEN BEFORE -- IT'S PHYSICALLY SPREADING OUT INTO TOWNS THAT HAVE NEVER HAD A VIOLENT CRIME PROBLEM. CRIME IS BECOMING INCREASINGLY VIOLENT AND RUTHLESS.

THERE WAS AN EPISODE IN WASHINGTON RECENTLY THAT REALLY EPITOMIZES WHAT I AM TALKING ABOUT. IT CAUGHT THE ATTENTION OF THE NATIONAL MEDIA. IT WAS THE CARJACKING EPISODE. A YOUNG MOTHER WITH HER 2 YEAR OLD CHILD IN THE CAR STOPPED AT A STOP SIGN IN HER MIDDLE CLASS NEIGHBORHOOD OUTSIDE OF WASHINGTON. SHE WAS PULLED OUT OF THE CAR -- HER CHILD WAS STILL IN THE CAR -- THE TWO HOODS JUMPED IN THE CAR AND SPED AWAY. SHE WAS TANGLED IN THE SEAT BELT AND DRAGGED FOR A MILE AND A HALF. THE PERPETRATORS KEPT ON KNOCKING THE CAR UP AGAINST OBSTACLES TO STRIP HER OFF, AND AFTER A MILE AND A HALF, SHE DIED OF MASSIVE INJURIES. THEN THEY THREW THE CHILD OUT THE WINDOW, STILL IN ITS CAR SEAT. THE POLICE ARRESTED 2 SUSPECTS AND WHILE THEY WERE BEING BOOKED AT THE LOCAL PRECINCT, THEY WERE LAUGHING AND BLOWING KISSES AT THE FEMALE OFFICERS, SHOWING NO REMORSE

WHATSOEVER.

THIS IS JUST PART OF THE RISING TIDE OF VIOLENCE THAT WE ARE WITNESSING IN THIS COUNTRY, AND WE HAVE TO ASK OURSELVES HOW MUCH OF THIS CAN WE TAKE AS A SOCIETY? CAN WE DO ANYTHING ABOUT VIOLENT CRIME? OR, ARE WE DOOMED TO LIVE AMIDST THIS EVER INCREASING VIOLENCE -- HELPLESS TO DO ANYTHING TO BRING IT UNDER CONTROL?

WELL, WE CAN DO SOMETHING ABOUT IT, AND THE QUESTION IS WHETHER WE HAVE THE WILL TO DO IT. BUT FIRST, I WOULD LIKE TO CLEAR THE AIR OVER WHAT I THINK IS A FALSE DICHOTOMY BETWEEN TWO DIFFERENT APPROACHES TO DEALING WITH VIOLENT CRIME.

IN OUR PUBLIC DISCUSSIONS, WE SEE TWO DIFFERENT APPROACHES PRESENTED AS SOLUTIONS. FIRST, THERE IS THE LAW ENFORCEMENT APPROACH THAT SAYS CRIME IS CAUSED BY CRIMINALS AND YOU HAVE TO TARGET THE CRIMINALS AND DETER CRIME BY PUNISHING THEM. THEN YOU CAN SEE THE OTHER APPROACH WHICH IS THE "ROOT CAUSES" APPROACH. IT SAYS THAT VIOLENT CRIME IS REALLY CAUSED BY UNDERLYING SOCIAL CONDITIONS. TO ADDRESS CRIME, WE HAVE TO REMEDY THOSE SOCIAL CONDITIONS THROUGH SOCIAL PROGRAMS -- WE HAVE TO ATTACK THE "ROOT CAUSES" WITH SOCIAL PROGRAMS.

ULTIMATELY, WE NEED A MIXTURE OF BOTH OF THESE APPROACHES, AND IT'S A QUESTION OF FINDING THE RIGHT BALANCE. OBVIOUSLY, WE

HAVE TO TRY TO ELIMINATE THOSE CONDITIONS WHICH CONTRIBUTE TO CRIME AS BEST WE CAN.

TODAY WE HAVE TO DO ALL WE CAN TO INSURE THAT THE YOUTH OF TODAY DO NOT BECOME THE HARDENED CRIMINALS OF TOMORROW. THE ADMINISTRATION AND OUR DEPARTMENT ARE PROMOTING PROGRAMS THAT ARE TARGETED AT HIGH RISK YOUTHS. BUT, AT THE SAME TIME, WE HAVE TO DEAL WITH THE CRIMINALS WHO ARE WREAKING HAVOC ON THE STREETS TODAY. IT'S NICE TO PLAN FOR AND HOPE FOR A MORE PEACEFUL SOCIETY IN THE FUTURE. BUT THE CITIZENS OF TODAY DESERVE PROTECTION, AND I AM AFRAID THAT TOO MANY ADVOCATES OF THE ROOT CAUSES APPROACH FAIL TO APPRECIATE THE NEED FOR STRONG LAW ENFORCEMENT. THEY TEND TO DISMISS RELIANCE ON POLICE AND PROSECUTORS AND PRISONS AS SOMEHOW UNENLIGHTENED OR OVERLY PUNITIVE, AND THEY SAY THAT BEING TOUGH REALLY DOESN'T WORK. THEY PRESENT THEIR SOCIAL PROGRAMS AS ALTERNATIVES TO AND SUBSTITUTES FOR TOUGH LAW ENFORCEMENT. AS I AM FIGHTING FOR THE RESOURCES FOR FEDERAL LAW ENFORCEMENT IN WASHINGTON, THEY SAY WE SHOULDN'T BE SPENDING MORE MONEY ON PROSECUTORS, POLICE, AND AGENTS -- WE SHOULD BE SPENDING MONEY ON EDUCATION AND HOUSING.

THAT KIND OF ANTAGONISTIC DICHOTOMY IS WRONG, AND I THINK THOSE WHO GIVE SHORT SHRIFT TO THE NEED FOR TOUGHER LAW ENFORCEMENT AND INSTEAD PURSUE SOCIAL PROGRAMS AS A SUBSTITUTE ARE MISSING A BASIC POINT. THAT IS, IN A ATMOSPHERE OF VIOLENCE AND FEAR, NONE OF THESE SOCIAL PROGRAMS ARE GOING TO BE ABLE TO

TAKE ROOT AND SUCCEED. THAT IS WHAT'S HAPPENING TODAY AND WHAT HAS HAPPENED OVER THE PAST 25 YEARS. OUR EFFORTS AT SOCIAL REHABILITATION HAVE BEEN STRANGLERED LARGELY BY CRIME ITSELF.

THE FACT IS THAT WE'VE BEEN FOLLOWING A "ROOT CAUSES" STRATEGY FOR THE PAST 25 YEARS. WHAT HAVE WE BEEN DOING FOR THE PAST 25 YEARS? WE HAVE INVESTED EVER-INCREASING AMOUNTS IN ATTACKING THE UNDERLYING SOCIAL CONDITIONS. EVERY YEAR SINCE 1965, WE HAVE HAD SUBSTANTIAL INCREASES IN THOSE PROGRAMS SO THAT TODAY THEY STAND AT RECORD LEVELS. \$290 BILLION DOLLARS OF GOVERNMENT SPENDING GOES JUST INTO MEANS-TESTED ANTIPOVERTY PROGRAMS -- THAT COMES TO \$3,100 DOLLARS FOR EVERY TAXPAYER. WHEN YOU ADD ON ALL THE OTHER PROGRAMS THAT ARE NOT MEANS-TESTED -- EDUCATION PROGRAMS, CERTAIN HOUSING PROGRAMS, AND SO FORTH -- WE'RE TALKING ABOUT MANY THOUSANDS OF DOLLARS PER TAXPAYER. COMPARED TO HOW MUCH FOR LAW ENFORCEMENT? A FEW HUNDRED.

SO WE HAVE BEEN FOLLOWING A "ROOT CAUSES" STRATEGY, AND I AM NOT SAYING WE SHOULDN'T. BUT IT IS BECOMING INCREASINGLY CLEAR THAT WE ARE NOT GETTING THE RETURN ON THAT INVESTMENT THAT WE SHOULD. A LARGE REASON FOR IT IS THAT CRIME ITSELF IS OVERWHELMING AND NULLIFYING A LOT OF THOSE EFFORTS. IT IS CLEAR THAT AN ABSOLUTE PREREQUISITE TO THESE SOCIAL PROGRAMS WORKING IS STRONG LAW ENFORCEMENT.

WHAT GOOD IS IT TO BUILD A HOUSING PROJECT ONLY TO SEE IT

BECOME A STASH HOUSE? AND WHAT GOOD IS IT TO BUILD MODEL SCHOOLS ONLY TO SEE THE SCHOOLS RUN BY GANGS AND NOT BY TEACHERS? THE BOTTOM LINE, I THINK, IS THAT ATTEMPTS TO ADDRESS UNDERLYING "ROOT CAUSES" MUST BE BUILT ON A FOUNDATION OF A STRONG, AGGRESSIVE AND SUCCESSFUL LAW ENFORCEMENT PROGRAM.

THAT BRINGS ME TO THE SECOND POINT. WHAT CAN WE DO ON THE LAW ENFORCEMENT SIDE TO HAVE AN IMPACT ON CRIME? PUT ASIDE FOR A MOMENT OUR EFFORTS TO DEAL WITH HIGH RISK YOUTHS, WITH POVERTY, AND SO FORTH, AND LET'S LOOK AT THE LAW ENFORCEMENT SIDE. A LOT OF CRIME IN OUR SOCIETY IS UNPREDICTABLE. FOR EXAMPLE, SOMEONE WHO DOES NOT HAVE A PRIOR RECORD, AND PROVIDES NO REASON TO THINK THEY WILL BE A THREAT TO THE COMMUNITY, SUDDENLY EXPLODES IN A DOMESTIC DISPUTE AND COMMITS A MURDER. THOSE KINDS OF ACTIONS ARE VERY HARD TO PREDICT AND HARD TO PREVENT. BUT MOST OF THE PREDATORY VIOLENCE IN OUR SOCIETY IS NOT COMMITTED BY NOVICES. STUDY AFTER STUDY SHOWS THAT MOST OF THE PREDATORY VIOLENCE IN OUR SOCIETY IS COMMITTED BY A VERY SMALL GROUP OF CHRONIC OFFENDERS WHO ARE RESPONSIBLE FOR A VAST MAJORITY OF VIOLENCE IN OUR SOCIETY.

THERE'S A 1982 STUDY THAT FOLLOWED 240 CHRONIC OFFENDERS FOR A PERIOD OF 11 YEARS AND FOUND THAT THEY COMMITTED FIVE HUNDRED THOUSAND CRIMES. THAT'S 190 CRIMES A YEAR. NUMEROUS OTHER STUDIES HAVE REACHED THE SAME RESULT. THERE'S A CALIFORNIA STUDY OF CONVICTED MALES THAT FOUND THAT JUST 3 1/2% OF THOSE MALES

WERE RESPONSIBLE FOR ABOUT 60% OF THE CRIME THAT WAS COMMITTED. THIS IS THE CRIME THAT IS PREDICTABLE. THIS IS THE CRIME THAT CAN BE MANAGED AND PREVENTED BY SOCIETY AND WHAT IT REQUIRES IS TARGETING AND INCAPACITATING THOSE VIOLENT CHRONIC OFFENDERS. 30% OF THE MURDERS IN THIS COUNTRY -- 6,500 OF OUR FELLOW CITIZENS MURDERED EACH YEAR -- ARE COMMITTED BY PEOPLE WHO ARE ON PROBATION, PAROLE, OR BAIL AT THE TIME OF MURDER.

TAKE THIS CASE IN MARYLAND. AS SOON AS I HEARD ABOUT THE CARJACKING I COULD HAVE PREDICTED THE CRIMINAL HISTORY RECORD OF THE INDIVIDUAL WHO WAS ARRESTED AS A SUSPECT. HERE IT IS: 1983, A ROBBERY PUT HIM ON PROBATION; 1984, A ROBBERY REVOKED HIS PROBATION, HE SERVED A SHORT SENTENCE; 1991, ASSAULT WITH INTENT TO KILL, THAT CHARGE WAS DROPPED; 5 MONTHS LATER HE WAS ARRESTED FOR DISTRIBUTION OF COCAINE AND HEROIN AND WAS PUT INTO A PROGRAM CALLED "OPERATION PROGRESS." UNDER "OPERATION PROGRESS," THIS INDIVIDUAL STAYED AT HOME, WAS MONITORED, TOOK 2 URINE TESTS A WEEK, AND REPORTED TO HIS PROBATION OFFICER. WITHIN MONTHS HE WAS REARRESTED FOR THE SAME OFFENSE -- DISTRIBUTION OF COCAINE AND HEROIN -- AND HE WAS FREED AT \$5,000 BAIL. NOTHING WAS PUT DOWN BECAUSE HE DIDN'T HAVE THE RESOURCES. ONE WEEK LATER, THE INCIDENT OCCURRED WITH MRS. BASU, THE YOUNG MOTHER. SO "OPERATION PROGRESS" WASN'T MUCH PROGRESS FOR MRS. BASU.

ONE OF THE PRINCIPAL REASONS WE ARE CONTINUING TO SEE THIS REVOLVING DOOR OF CHRONIC VIOLENT OFFENDERS ARRESTED, PUT IN

PRISON, AND LET BACK OUT TO COMMIT MORE VIOLENCE, IS THAT WE'RE FAILING TO INCAPACITATE THESE INDIVIDUALS THROUGH LONG PRISON SENTENCES. NOW, THERE ARE A NUMBER OF REASONS FOR THE UP-SWING IN VIOLENCE. THE CRACK COCAINE EPIDEMIC HAS A LOT TO DO WITH IT. THE BREAKDOWN OF THE FAMILY HAS A LOT TO DO WITH IT -- THAT'S RESULTING IN JUVENILIZATION OF CRIME. WE'RE SEEING MORE AND MORE YOUNG PEOPLE COMMIT CRIMES, AND THAT HAS TO DO A LOT WITH THE SOCIAL POLICIES WE FOLLOWED IN THE 60'S AND 70'S. WE DO HAVE CHILDREN BEING RAISED WITHOUT MORAL GUIDANCE -- WITHOUT FATHERS. THEY ARE JOINING GANGS, THEY ARE BECOMING MORE VIOLENT, AND THAT IS GOING TO CONTINUE. WE HAVEN'T BEEN ABLE TO ARREST THAT PROCESS. BUT A BIG PART OF IT IS THE PROBLEM OF RECIDIVISM. THE PERCENTAGE OF SENTENCE SERVED HAS BEEN DROPPING AROUND THE NATION AND THAT MEANS MORE VICTIMS.

I HAVE SUMMED UP THE SITUATION REGARDING LAW ENFORCEMENT IN THIS COUNTRY THIS WAY: THE POLICE AND PROSECUTOR ARE DOING A SUPERB JOB. THEY ARE BASICALLY ARRESTING AND CONVICTING THE PEOPLE WHO COMMIT THE CRIMES. BUT THE REST OF THE SYSTEM IS LETTING THEM DOWN. THOSE CRIMINALS ARE TURNED BACK OUT ON THE STREET.

I SAW A RECENT SURVEY IN CALIFORNIA THAT SAID 88% OF THE POLICE CHIEFS FEEL THEY ARE WASTING THEIR TIME BY ARRESTING CRIMINALS, BECAUSE THEY ARE GOING TO BE RIGHT BACK OUT ON THE STREETS. I DON'T THINK WE ARE GOING TO BE ABLE TO DO ANYTHING

ABOUT VIOLENT CRIME UNTIL WE ADDRESS THIS PROBLEM -- THE REVOLVING DOOR PROBLEM. OUR PRIMARY OBJECTIVE IN STRUCTURING OUR CRIMINAL JUSTICE SYSTEM HAS TO BE FOCUSING ON THE INCAPACITATION OF THE CHRONIC OFFENDER -- STOPPING THE REVOLVING DOOR. THAT'S AN INDISPENSABLE PART OF ANY SOLUTION TO DEALING WITH VIOLENT CRIME.

IN THIS REGARD, THIS ADMINISTRATION HAS PUT ITS MONEY WHERE ITS MOUTH IS. IT HAS INVESTED A LOT OF RESOURCES IN LAW ENFORCEMENT OVER THE PAST 4 YEARS. JUST IN THE FIRST THREE YEARS OF THE ADMINISTRATION, WE DOUBLED FEDERAL PRISON CAPACITY. AND BY 1995, WE WILL HAVE TRIPLED FEDERAL PRISON CAPACITY. WE HAVE SUBSTANTIALLY INCREASED THE NUMBER OF AGENTS AND PROSECUTORS IN THE FEDERAL SYSTEM. WE HAVE TRIPLED ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT.

I WILL DISCUSS SOME PROGRAMS THAT WE HAVE PUT INTO PLACE TO ASSIST STATES, NOT ONLY MATERIALLY, BUT ALSO OPERATIONALLY. WE HAVE BEEN WORKING WITH STATES TO TRY TO GET PRISON CAPS LIFTED. THIS IS ONE OF THE PROBLEMS WITH THE REVOLVING DOOR. 28 OF THE PRISONS IN THE STATE OF CALIFORNIA ARE NOW BEING RUN BY JUDGES WHO HAVE LIMITED THE NUMBER OF PRISONERS WHO CAN BE INCARCERATED IN THOSE PRISONS.

NOW, JUST LET ME TURN SOME OF THE CRITICISM OF THIS "GET TOUGH" APPROACH. ONE CRITICISM I FREQUENTLY HEAR FROM THE

A.C.L.U. PRISON PROJECT IS, "GETTING TOUGH DOESN'T WORK, WE HAVE FILLED OUR JAILS DURING THE 1980'S. CRIME IS STILL GOING UP, YOUR 'GET TOUGH' LAW ENFORCEMENT HAS BEEN A FAILURE AND WE NEED SOME OTHER APPROACH." I THINK THIS ARGUMENT IS FRIVOLOUS. FIRST, WE REALLY HAVEN'T TRIED CRACKING DOWN OR GETTING TOUGH. G.K. CHESTERTON, A FAMOUS WRITER, ONCE SAID THAT IT IS NOT THAT CHRISTIANITY HASN'T BEEN TRIED AND FOUND WANTING -- IT JUST HAS NEVER BEEN TRIED. AND I THINK THE SAME CAN BE SAID ABOUT STRONG LAW ENFORCEMENT IN RECENT YEARS -- IT HASN'T BEEN TRIED. WHAT WE DID IN THE 80'S WAS BASICALLY HALF THE JOB. WE STARTED TO REFORM THE SYSTEM, WE STARTED GETTING TOUGH, BUT EVEN THOSE HALF MEASURES THAT WE TOOK IN THE 80'S HAVE HAD AN EFFECT.

IN THE 60'S AND 70'S WHEN INCARCERATION RATES WERE DROPPING, PRISON SENTENCES WERE MUCH SHORTER. THAT'S WHEN WE HAD THAT 400% CRIME INCREASE. IN THE 1980'S WHEN WE DOUBLED THE INCARCERATION RATE AND STARTED SENDING PEOPLE TO PRISON FOR LONGER SENTENCES AND STARTED BUILDING SOME PRISONS, WE SAW A DEPRESSION OF THE TRAJECTORY OF VIOLENT CRIME OF COURSE, THE CRITICISM BASICALLY MISSES THE WHOLE POINT. THE ISSUE ISN'T WHETHER VIOLENCE IS STILL GOING UP. THE ISSUE IS WHERE WOULD THE VIOLENCE BE BUT FOR THE STEPS WE HAVE TAKEN AND FOR THE PEOPLE WE HAVE PUT IN PRISON?

DURING THE 1980'S WE ADDED 500,000 PEOPLE TO THE PRISON POPULATION IN THE UNITED STATES -- GOING FROM 300,000 TO ABOUT

800,000. THAT'S VERY SUBSTANTIAL. CAN ANYONE SERIOUSLY ARGUE THAT IT WOULD BE A SAFER SOCIETY TODAY IF WE TOOK THOSE 500,000 OFFENDERS AND PUT THEM BACK OUT ON THE STREET? I DON'T THINK SO. THE CRIME RATE WOULD BE MUCH HIGHER THAN IT IS TODAY.

SOME PEOPLE SAY OUR SYSTEM IS TOO PUNITIVE -- THAT WE HAVE MORE PEOPLE IN PRISON THAN SOUTH AFRICA AND THE SOVIET UNION. THEY SAY WE ARE A MUCH MORE PUNITIVE COUNTRY THAN EVEN THE SOVIET UNION AND THAT'S TERRIBLE. I DON'T THINK WE ARE TOO PUNITIVE. I THINK WE ARE NOT PUNITIVE ENOUGH. IN FACT, YOUR CHANCES OF GOING TO PRISON IN THIS COUNTRY, IF YOU COMMIT A CRIME AND ARE APPREHENDED, ARE THE SAME AS IN THE UNITED KINGDOM, CANADA, AND ALL THE OTHER DEMOCRACIES IN THE WORLD. YOU DON'T HAVE MORE OF CHANCE OF GOING TO PRISON. THE REASON WE HAVE MORE PEOPLE IN PRISON IS BECAUSE WE HAVE A SUBSTANTIALLY HIGHER CRIME RATE. SO, WE ARE NOT MORE PUNITIVE. WE JUST HAVE MORE CRIMINALS. THE FACT OF THE MATTER IS OUR SYSTEM TODAY IS FAR LESS PUNITIVE THEN IT WAS PRIOR TO 1960.

THERE ARE THOSE WHO SAY THAT WE JUST CANNOT SIMPLY AFFORD TO INVEST WHAT WE HAVE TO INVEST IN LAW ENFORCEMENT AND PRISONS TO DO THE JOB. THAT ARGUMENT IS SHORT SIGHTED. I REALIZE THAT RIGHT NOW MANY STATES SUCH AS CALIFORNIA HAVE BUDGET PROBLEMS AND BUDGET CONSTRAINTS. I AM NOT TALKING ABOUT THIS YEAR'S BUDGET OR EVEN NEXT YEAR'S BUDGET. I AM TALKING ABOUT A COMMITMENT TO LAW ENFORCEMENT WHICH, IN FACT, CALIFORNIA HAS DEMONSTRATED OVER MANY

YEARS. THE FACT OF THE MATTER IS WE CAN NOT AFFORD NOT TO MAKE THAT INVESTMENT. INVESTMENTS IN LAW ENFORCEMENT, AND IN PRISONS SPECIFICALLY, ARE GOOD INVESTMENTS BECAUSE OF THE COST TO SOCIETY. THE COST TO SOCIETY OF FAILING TO DEAL EFFECTIVELY WITH THESE CRIMINALS FAR EXCEEDS THE INVESTMENT THAT IS REQUIRED. THE COST OF CRIME IS STAGGERING -- OVER A HUNDRED BILLION A YEAR JUST IN ECONOMIC COSTS. IT COSTS \$5 BILLION A YEAR IN THIS COUNTRY JUST TO TREAT GUN SHOT WOUNDS IN EMERGENCY ROOMS. AND THEN, OF COURSE, THERE IS THE COST OF THE REVOLVING DOOR SYSTEM ITSELF -- THE COST OF THE COURTS, POLICE, AND PROSECUTORS APPREHENDING SOMEONE, BRINGING THEM TO JUSTICE, SEEING THEM RELEASED IN TWO YEARS, AND GOING AFTER THEM AGAIN. IN AND OUT, IN AND OUT, THAT'S A COSTLY SYSTEM -- FAR MORE COSTLY THAN A SYSTEM THAT APPREHENDS THE INDIVIDUAL AND PUTS THEM IN PRISON FOR A SUBSTANTIAL PERIOD OF TIME.

THEN THERE'S THE COST OF PRIVATE SECURITY WHICH PEOPLE FREQUENTLY FORGET ABOUT -- THE COST OF BARS ON THE WINDOWS AND BARS ON THE DOORS, THE COST OF THE AUTOMOBILE SECURITY DEVICES, THE COST OF THE PRIVATE GUARD SERVICES, AND SO FORTH. AND THEN THE ECONOMIC COST OF LOST OPPORTUNITY, LOST WAGES, LOST TAX REVENUES, AND SO FORTH. AND WHEN YOU TOTAL THIS ALL UP, THE COST OF CRIME TO OUR SOCIETY IS ASTRONOMICAL, FAR EXCEEDING WHAT IT COSTS TO APPREHEND THE VIOLENT CRIMINAL. THE BUREAU OF ALCOHOL AND TOBACCO AND FIREARMS DID A STUDY OF CHRONIC VIOLENT OFFENDERS IN FEDERAL PRISONS AND FOUND THAT IT COST US \$20,000 A YEAR FOR

EACH YEAR THEY ARE IN PRISON. BUT IT COST \$384,000 FOR EVERY YEAR THEY WERE OUT ON THE STREET -- JUST IN ECONOMIC TERMS. NOW THAT IS A GOOD BARGAIN. THINK OF ALL THE AREAS IN SOCIETY WHERE WE ARE WILLING TO PAY TENS OF BILLIONS OF DOLLARS TO AVOID THE RISK OF HARM. WE SPEND TENS OF BILLIONS OF DOLLARS TO CLEAN OUR ENVIRONMENT BECAUSE WE ARE CONCERNED ABOUT PREMATURE DEATHS. IN HIGHWAY SAFETY WE PUT MONEY INTO THE BARRIERS ALONG THE HIGHWAY, AIRBAGS, AND AUTO INSPECTIONS BECAUSE WE ARE AFRAID OF THE RISK OF INJURY: I AM NOT SAYING THAT SOME OF THESE THINGS AREN'T GOOD, BUT I AM SAYING IF WE USED THE SAME COST/BENEFIT ANALYSIS FOR LAW ENFORCEMENT WE'D BE SPENDING A LOT MORE ON LAW ENFORCEMENT THAN WE ARE TODAY.

TURNING AROUND THE REVOLVING DOOR WILL REQUIRE MORE THAN JUST RESOURCES. IT'S GOING TO REQUIRE REFORMING OUR CRIMINAL JUSTICE SYSTEM. AS I SAID, IN THE 1980'S WE TOUGHENED UP THE FEDERAL SYSTEM SUBSTANTIALLY. WE GOT PRETRIAL DETENTION. WE ABOLISHED PAROLE. WE GOT MANDATORY MINIMUM SENTENCES FOR CHRONIC OFFENDERS. I DON'T THINK ANYONE WILL DISPUTE THAT THE FEDERAL CRIMINAL JUSTICE SYSTEM IS THE TOUGHEST IN THE NATION BY FAR.

BUT WE HAVE AN UNFINISHED AGENDA. THE PRESIDENT HAS A CRIME BILL TO COMPLETE THE REFORM OF THE FEDERAL SYSTEM, WHICH INCLUDES THE DEATH PENALTY AND HABEAS CORPUS REFORM. HABEAS CORPUS REFORM IS CRITICAL, BECAUSE THE ABUSE THAT RIGHT UNDERMINES THE WHOLE STATE CRIMINAL JUSTICE SYSTEM. AN EXAMPLE OF THE MOCKERY IT

MAKES OF THE CRIMINAL JUSTICE SYSTEM IS THE CASE OF ROBERT ALTON HARRIS RIGHT HERE IN CALIFORNIA. WE HAVE TO REFORM THAT SYSTEM AND BRING SOME FINALITY TO CRIMINAL JUDGEMENTS.

NO MATTER WHAT WE DO ON THE FEDERAL LEVEL, WE'RE GOING TO HAVE A LIMITED IMPACT. 95% OF VIOLENT CRIME OCCURS AT THE STATE LEVEL, ONLY A TINY FRACTION OCCURS AT THE FEDERAL LEVEL. SO IF THE STATE SYSTEM IS NOT FUNCTIONING EFFECTIVELY, WE ARE NOT GOING TO SEE ANY SIGNIFICANT REDUCTION IN VIOLENT CRIME. UNFORTUNATELY, THE STATE SYSTEMS HAVE LAGGED BEHIND THE REFORMS THAT HAVE BEEN IMPLEMENTED IN THE FEDERAL SYSTEM. MANY OF THEM OPERATE LIKE SIEVES -- SO WE DO NEED STATE REFORM.

IN JULY, WE PUT OUT A VIOLENT CRIME REPORT THAT REVIEWS STATE CRIMINAL JUSTICE SYSTEMS, AND HELPS EXPLAIN TO THE AVERAGE CITIZEN HOW TO JUDGE THE CRIMINAL JUSTICE SYSTEM. IT SUGGESTS 24 SPECIFIC RECOMMENDATIONS TO IMPROVE CRIMINAL JUSTICE. IT WAS INTRODUCED BY A BROAD BIPARTISAN REPRESENTATION OF REPUBLICANS AND DEMOCRATS, LAW ENFORCEMENT OFFICES FROM AROUND THE COUNTRY INCLUDING THE HEAD OF THE I.A.C.P., HEAD OF THE DISTRICT ATTORNEYS ASSOCIATION, THE HEAD OF THE NATIONAL SHERIFFS ASSOCIATION, THE HEAD OF THE STATE ATTORNEYS GENERAL CRIMINAL JUSTICE COMMITTEE AND NUMEROUS VICTIMS GROUPS, INCLUDING A VICTIMS GROUP OUT HERE IN CALIFORNIA. THIS VIOLENT CRIME REPORT WILL HELP US FOCUS OUR REFORM EFFORTS AT THE STATE LEVEL.

WE ARE ALSO GOING TO NEED TO FOCUS OUR RESOURCES WHERE THEY ARE GOING TO DO THE MOST GOOD AND HAVE THE HIGHEST IMPACT. IN THIS ADMINISTRATION, WE HAVE BEEN LEANING FORWARD TO HELP THE STATES. WE HAVE BEEN WORKING TOGETHER WITH THEM AND FORMING TASK FORCES AND PARTNERSHIPS AND TRYING TO ENHANCE COOPERATION.

FOCUSING ON THE TOUGHEST PROBLEMS, I WOULD LIKE TO JUST GIVE YOU THREE EXAMPLES OF THE PROGRAMS I AM TALKING ABOUT. THE TRIGGERLOCK PROGRAM IS A PROGRAM THAT WE STARTED IN APRIL 1991. UNDER IT, WE USE OUR FEDERAL FIREARMS STATUTE WHICH HAS MANDATORY MINIMUM PENALTIES TO DEAL WITH CHRONIC OFFENDERS WHO IN THE PAST MAY HAVE BEEN PROSECUTED IN THE STATE SYSTEM. WE TAKE THESE PEOPLE THAT HAVE PRIOR RECORDS, WHO HAVE BEEN FOUND IN POSSESSION OF A GUN OR AMMUNITION, OR WHO HAVE USED A GUN IN ANOTHER OFFENSE, AND INSTEAD OF PROSECUTING THEM IN THE STATES, WE PROSECUTE THEM FEDERALLY AND GIVE THEM A FEDERAL PENALTY WITHOUT PAROLE. IN THE FIRST YEAR OF THAT PROGRAM, WE HAD 6,500 PEOPLE CHARGED NATIONALLY. WE'RE NOW CONVICTING THEM AT A 96% CONVICTION RATE. THE AVERAGE PENALTY GIVEN OUT IS SEVEN YEARS WITHOUT PAROLE; FOR THOSE WHO HAVE HAD THREE PRIOR FELONIES, THE MINIMUM IS 15 YEARS TO LIFE. THE AVERAGE PENALTY FOR THREE-TIME LOSERS WE'RE GIVING IS 18 YEARS WITHOUT PAROLE. JOHN'S OFFICE HERE IN SAN FRANCISCO HAS BEEN DOING A GREAT JOB IDENTIFYING THESE CHRONIC OFFENDERS AND PUTTING THEM AWAY FOR LONG PERIODS OF TIME.

THE SECOND PROGRAM IS OUR ANTIGANG TASK FORCE. IN JANUARY, THE FBI REDEPLOYED A LOT OF THEIR ASSETS TO GO INTO ANTIGANG TASK FORCES, AND NOW IN MOST MAJOR CITIES ACROSS THE COUNTRY WE HAVE FEDERAL, STATE AND LOCAL TASK FORCES WORKING TOGETHER TO TARGET THE GANGS. THAT GIVES THEM THE ADVANTAGE NOT ONLY OF THE FEDERAL RESOURCES, BUT FEDERAL LAWS -- THE ORGANIZED CRIME STATUTE, THE GUN STATUTES, AND OTHER STATUTES WE CAN BRING TO BEAR. AND IN OUR MODEL PROJECT IN PHILADELPHIA, WE WORKED CLOSELY WITH THE NOW CHIEF OF POLICE IN LOS ANGELES, WILLIE WILLIAMS. IN THREE YEARS, 38 GANGS WERE COMPLETELY EXTIRPATED, 600 GANG LEADERS ARE NOW IN FEDERAL PRISONS SERVING LONG PENALTIES WITHOUT PAROLE, AND THE CRIME RATE IN PHILADELPHIA HAS SIGNIFICANTLY DECLINED. WILLIE WILLIAMS SAYS THAT'S BECAUSE OF THE VIOLENT TRAFFICKERS PROJECT WHERE WE ARE USING THOSE FEDERAL LAWS TO GO AFTER THE GANGS. WE HAVE TAKEN THIS NATIONWIDE AND IN THE LAST SEVERAL MONTHS THERE HAVE BEEN, LARGE GANGS COMING DOWN ALL AROUND THE COUNTRY. MORE AND MORE GANGS WILL BE TAKEN DOWN WHOLESALE. I AM TALKING FORTY, FIFTY, SIXTY, EIGHTY PEOPLE INDICTED ALL AT ONCE AND TAKEN OFF THE STREETS.

THE LAST PROGRAM I WANT TO MENTION IS THE WEED AND SEED PROGRAM. IT'S A PILOT PROGRAM IN TWENTY CITIES WHICH TRIES TO TAKE THE SOCIAL PROGRAMS, THE YOUTH PROGRAMS, THE DRUG PREVENTION AND DRUG TREATMENT PROGRAMS, AND MATCH THEM UP WITH STRONG LAW ENFORCEMENT, AND THEN APPLY IT ON A NEIGHBORHOOD BY NEIGHBORHOOD BASIS. WE ARE WORKING WITH THE NEIGHBORHOOD IN A PARTNERSHIP.

GETTING THE POLICE OUT OF THE CRUISERS AND WORKING IN THE COMMUNITY IS THE CONCEPT OF COMMUNITY-ORIENTED POLICING -- FORMING A TEAM TO SOLVE PROBLEMS ON A NEIGHBORHOOD BY NEIGHBORHOOD BASIS. WE ARE TRYING TO HAVE THOSE SAME NEIGHBORHOODS DESIGNATED AS ENTERPRISE ZONES SO WE CAN ATTRACT REAL OPPORTUNITY IN BUSINESS AS WELL.

NOW THIS WEED AND SEED PROGRAM, AS I SAY, IS IN TWENTY CITIES, AND IN THESE CITIES WE ARE SEEING DRAMATIC RESULTS AND NONE MORE DRAMATIC THEN WHAT WE'RE SEEING DOWN IN SANTA ANA -- WHICH IS ONE OF OUR CALIFORNIA PROJECTS WHERE IT'S BEEN IN EFFECT JUST THROUGH THE SUMMER. WE HAVE COMPARED THIS SUMMER TO LAST SUMMER IN THE NEIGHBORHOOD WHERE WE HAVE OUR WEED AND SEED PROGRAM, AND VIOLENT CRIME, PROPERTY CRIME, AND COMMERCIAL CRIME HAVE FALLEN BETWEEN 30 AND 70% IN EVERY CATEGORY ACROSS THE BOARD. IN THAT COMMUNITY, SOME PEOPLE WERE CONCERNED THAT WHAT WE MIGHT DO IS CHASE THE CRIMINAL ELEMENT OUT INTO ANOTHER AREA. BUT THE CRIME RATE IN THE WHOLE SURROUNDING AREA HAS ALSO DECLINED SIGNIFICANTLY -- INDICATING THERE IS A CARRYOVER AFFECT IF YOU TARGET THE HARD CORE CRIMINAL ELEMENT AND NEUTRALIZE THEM, YOU WILL SEE RESULTS. THAT HAS BEEN THE CASE ACROSS THE BOARD IN OUR WEED AND SEED PROGRAM. WE ARE VERY HOPEFUL THAT THE PROGRAM WILL CONTINUE TO GAIN THE SUPPORT IT HAS AROUND THE COUNTRY AND BECOME A MODEL FOR ATTACKING VIOLENT CRIME, BRINGING SOCIAL PROGRAMS AND TOUGH LAW ENFORCEMENT TOGETHER.

IN SUM, MY MESSAGE IS THREEFOLD. FIRST, SOCIAL PROGRAMS CANNOT SUBSTITUTE FOR STRONG LAW ENFORCEMENT. STRONG LAW ENFORCEMENT HAS TO BE THE FOUNDATION, OTHERWISE THE SOCIAL PROGRAM WILL NOT WORK. SECOND, ON THE LAW ENFORCEMENT SIDE, WE HAVE TO FOCUS ON THE CHRONIC OFFENDER AND INCAPACITATE THAT OFFENDER. THAT'S GOING TO TAKE RESOURCES. IF WE PUT IN THOSE RESOURCES, IF WE DO THE REFORMS THAT ARE NECESSARY, IF WE INTEGRATE OUR SOCIAL PROGRAMS OR LAW ENFORCEMENT AND START APPROACHING THIS ON A NEIGHBORHOOD BY NEIGHBORHOOD BASIS, THEN I THINK WE CAN MAKE PROGRESS AND HAVE AN IMPACT ON VIOLENT CRIME. THE VIOLENCE IN THIS SOCIETY DIDN'T GET WHERE IT IS TODAY OVERNIGHT AND IT'S NOT GOING TO BE SOLVED OVERNIGHT. BEYOND LAW ENFORCEMENT, AS I SAID AT THE OUTSET, IT'S GOING TO TAKE BETTER SOCIAL PROGRAMS -- DEALING WITH YOUTH EDUCATION, FOR EXAMPLE --TO AMELIORATE THE CONDITIONS THAT CONTRIBUTE TO CRIME. BUT I THINK THIS AGENDA HOLDS A REAL PROSPECT FOR HAVING A IMPACT AND MAKING THIS COUNTRY A MORE JUST AND SAFER PLACE TO LIVE. THANK YOU VERY MUCH.

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Section: NEWS

U.S. TOP LAWYER ASKS ACTION IN "CRIME CRISIS' ATTORNEY GENERAL
REPORTS "EPIDEMIC OF VIOLENCE' THAT IS GAINING HEADWAY

Paul Avery OF THE EXAMINER STAFF

The nation's top cop didn't tell his Commonwealth Club luncheon audience anything they probably didn't already know about crime and criminals in America.

U.S. Attorney General William Barr said Tuesday there's been an "epidemic of violence" that has raised the nation's crime statistics 500 percent in the last 30 years. And tens of thousands of today's offenders are committing crimes that he termed "wanton, violent, (and) ruthless."

Barr spoke from jotted-down notes for 35 minutes and then answered questions about such crimes of violence as carjackings, drug trafficking and drug-related murders, drive-by street shootings and sexual assaults.

The only solution to this "crime crisis," Barr said, is to "target, arrest and swiftly convict" repeat offenders and then sentence them to lengthy terms in prison without any possibility of parole. Federal law enforcement agencies and the Department of Justice have been doing that since President Bush appointed him attorney general last year, Barr said.

Under Bush, Barr said, he has been able to launch a federal anti-crime operation called "Trigger Lock" in which ex-convicts who have served prison time for state crimes can be indicted on a federal charge and sent to a federal prison for merely being found in possession of a gun.

While Barr was giving his address in the Nikko Hotel's Grand Ballroom, several San Francisco law enforcement officers and prosecutors were waiting in a small meeting room on the same floor to tell reporters why they're supporting Arkansas Gov. Bill Clinton in his run for president.

Four more years of Bush and his programs won't make a dent in the country's crime problem, said San Francisco Sheriff Michael Hennessey, veteran SFPD Homicide Inspector Earl Sanders, Deputy District Attorney Bill Fazio and the others who held a news conference immediately after Barr spoke.

The system not only has to arrest, convict and imprison offenders, it has to immediately and dramatically deal with "root causes" of crime such as the poverty, joblessness and drug addiction that America is currently experiencing, they said. If he's elected president, Bill Clinton will work to do just that, they said.

Clinton as president will sign a tough nationwide gun control law, provide drug treatment on demand and create millions of jobs that pay enough to give people on the bottom rung of society hope and incentive to lead honest lives, the group said.

PHOTO William Barr

---- **Index References** ----

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NewsRoom

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES

ASIAN-PACIFIC AMERICAN BAR ASSOCIATION
WASHINGTON, D.C.
SEPTEMBER 25, 1992

THANK YOU.

IT IS A PLEASURE AND AN HONOR FOR ME TO BE HERE AT THE FOURTH ANNUAL CONVENTION OF THE NATIONAL ASIAN-PACIFIC AMERICAN BAR ASSOCIATION.

THE GREATNESS OF THIS COUNTRY STEMS FROM ITS DIVERSITY, FROM THE CONTRIBUTIONS OF ALL THE VARIOUS PEOPLE WHO MAKE UP OUR SOCIETY.

WE BENEFIT FROM THE LEGACY OF ALL THE IMMIGRANTS WHO, BY COMING TO AMERICA, HAVE IMMEASURABLY ENRICHED OUR NATION.

ASIAN PACIFIC AMERICANS MAKE UP CLOSE TO 7 MILLION OF THE INHABITANTS OF AMERICA, AND THEY PLAY A KEY ROLE IN HELPING THE UNITED STATES MAINTAIN ITS POSITION AS A WORLD LEADER.

ASIAN AMERICANS ARE HIGHLY VISIBLE IN THE ARTS, SCIENCE, EDUCATION, INDUSTRY, BUSINESS, AND OF COURSE, THE LAW.

AT THE DEPARTMENT OF JUSTICE, ASIAN-PACIFIC AMERICANS ARE REPRESENTED IN VIRTUALLY ALL OCCUPATIONS AND DIVISIONS OF THE DEPARTMENT -- AS ATTORNEYS, ANALYSTS, SUPPORT STAFF, SPECIAL AGENTS, IMMIGRATION OFFICERS, AND DEPUTY MARSHALS.

IN THE NATION AS A WHOLE, ASIAN-PACIFIC AMERICAN ATTORNEYS ARE ONE OF THE FASTEST GROWING SEGMENTS OF THE BAR.

EVERY YEAR, A LARGER PERCENTAGE OF LAW SCHOOL CLASSES IS MADE UP OF ASIAN-PACIFIC AMERICANS.

NATURALLY, WE ARE BENEFITTING FROM THIS AT THE DEPARTMENT OF JUSTICE. LAST YEAR, THE NUMBER OF ASIAN-PACIFIC AMERICAN ATTORNEYS APPLYING TO THE DEPARTMENT MORE THAN DOUBLED.

AND THE AVERAGE NUMBER HIRED IN THE LAST THREE YEARS HAS MORE THAN DOUBLED SINCE THE MID 80S -- MOSTLY THROUGH THE DEPARTMENT'S HONOR PROGRAM.

AS THE YOUNGEST ORGANIZATION FOR MINORITY ATTORNEYS, THIS ASSOCIATION IS IMPORTANT IN SERVING THE NEEDS AND INTERESTS OF THIS RAPIDLY-EXPANDING PART OF THE LEGAL COMMUNITY.

I WANTED TO BE HERE TODAY TO RECOGNIZE THE IMPORTANCE OF YOUR WORK, AND COMMEND YOU FOR YOUR EFFORTS.

AS ATTORNEY GENERAL, I AM COMMITTED TO SEE BROADEST PARTICIPATION OF ALL AMERICANS IN THE LEGAL PROFESSION, AND, MORE PARTICULARLY, IN THE DEPARTMENT OF JUSTICE.

EARLIER THIS YEAR, I MET WITH WILLIAM HOU AND OTHERS AND DISCUSSED MY INITIATIVES FOR ENSURING OPPORTUNITY IN THE ATTORNEY WORK FORCE AT JUSTICE. I AM PLEDGED TO DO WHAT I CAN TO SEE THAT THE DOORS OF OPPORTUNITY ARE OPEN TO ASIAN-PACIFIC AMERICANS AT ALL LEVELS.

I.

TODAY, I WOULD LIKE TO SHARE SOME BRIEF THOUGHTS WITH YOU ABOUT THE ROLE OF LAW AND LAWYERS IN OUR SOCIETY AND THE CHALLENGE THAT WE FACE AS A PROFESSION.

WE FREQUENTLY HEAR PEOPLE BEMOAN THE FACT THAT SO MANY OF THE "BEST AND BRIGHTEST" GO TO LAW SCHOOL AND PURSUE LEGAL CAREERS.

THE SUGGESTION IS THAT THIS IS A DIVERSION OF TALENT AND ENERGY AWAY FROM MORE PRODUCTIVE PURSUITS.

I THINK THIS VIEW IS QUITE WRONG.

THE LAW IS A HIGH CALLING. FEW HUMAN ENTERPRISES ARE MORE IMPORTANT THAN PROVIDING FOR THE RULE OF LAW.

THIS GREAT REPUBLIC WAS CREATED BY LAWYERS, AND THE LAW PLAYS A CENTRAL ROLE IN THE LIFE OF OUR SOCIETY.

WE ENJOY OUR FREEDOMS ONLY THROUGH THE RULE OF LAW.

AS LAWYERS, WE PLAY AN IMPORTANT ROLE IN SOCIETY BECAUSE IT FALLS UPON US TO MAKE THE SYSTEM OF LAWS WORK.

IN THE UNITED STATES, MORE THAN IN ANY OTHER COUNTRY, IT IS THE RULE OF LAW THAT HOLDS OUR SOCIETY TOGETHER.

OURS IS THE MOST DIVERSE NATION IN THE WORLD. NO OTHER COUNTRY IN THE WORLD HAS OUR DIVERSITY OF NATIONALITIES, RACIAL AND ETHNIC BACKGROUNDS, RELIGIONS, AND EVEN LANGUAGES.

AND YET WE HAVE BEEN UNIQUELY SUCCESSFUL IN INCORPORATING ALL OF THESE DIVERSE PEOPLE INTO A STRONG AND VIBRANT SOCIETY.

JUST HOW GREAT AN ACHIEVEMENT THAT IS IS APPARENT WHEN WE LOOK AT SOME OF THE TRAGIC EVENTS UNFOLDING AROUND THE WORLD TODAY.

AS THE YOKE OF TOTALITARIAN GOVERNMENT HAS BEEN THROWN OFF, LONG SUPPRESSED ETHNIC AND RELIGIOUS RIVALRIES HAVE ERUPTED IN A NUMBER OF COUNTRIES.

INTERNECINE WARFARE HAS BROKEN OUT, AND WE HAVE WITNESSED THE TRAGIC SPECTACLE OF NEIGHBOR FIGHTING NEIGHBOR.

I BELIEVE THAT ONE OF THE CRUCIAL REASONS THE UNITED STATES HAS LARGELY AVOIDED SUCH PROBLEMS THROUGHOUT ITS HISTORY HAS BEEN THE GENERAL ACCEPTANCE OF THE RULE OF LAW -- THE NOTION THAT THE LAW IS ABOVE ALL PEOPLE AND THAT OUR DISAGREEMENTS ARE TO BE SETTLED ACCORDING TO THE LAW -- THE NOTION THAT, RATHER THAN TAKING THE LAW INTO THEIR OWN HANDS, DISPUTES -- WHETHER CIVIL OR CRIMINAL IN NATURE -- ARE TO BE REFERRED TO THE LEGAL SYSTEM.

AND, HISTORICALLY, LAWYERS HAVE PLAYED A FUNDAMENTALLY IMPORTANT PART BOTH IN CONVEYING THAT MESSAGE AND IN MAKING THE LEGAL SYSTEM WORK SO THAT PEOPLE ACCEPT IT AS THE ARBITER OF THEIR DISPUTES.

THIS IS, HOWEVER, A PROCESS THAT MUST BE CONTINUALLY CARRIED OUT. THERE IS NOTHING AUTOMATIC ABOUT THIS ACCEPTANCE OF THE RULE OF LAW. RATHER, IT MUST BE RENEWED IN EACH GENERATION.

II.

THAT IS WHY IT IS UNFORTUNATE THAT WE SEE IN AMERICA TODAY INCREASING DISENCHANTMENT WITH THE LEGAL SYSTEM AND WITH LAWYERS.

THIS DISSATISFACTION GOES BEYOND LAWYERS JOKES AND PUBLIC OPINION SURVEYS.

THERE REALLY IS -- MORE THAN EVER BEFORE -- A WIDESPREAD CYNICISM ABOUT OUR PROFESSION.

WE LAWYERS -- I THINK -- TEND TO BE OVERLY DEFENSIVE ABOUT CRITICISM. ALL TOO OFTEN WE REFLEXIVELY DISMISS SUCH CRITICISM AS "LAWYER BASHING".

BUT I THINK WE SHOULD LISTEN CAREFULLY TO CRITICISM AND ATTEMPT TO LEARN FROM IT.

TRUE, MUCH OF IT IS UNDESERVED. BUT SOME OF IT MAY NOT BE WHOLLY WITHOUT MERIT. WE SHOULD PAY IT SOME HEED.

THE MORE I HAVE THOUGHT ABOUT IT, THE MORE I THINK THAT THE WIDESPREAD CYNICISM ABOUT LAWYERS RESULTS FROM A GROWING PUBLIC PERCEPTION THAT THE SYSTEMS WHICH WE RUN -- BOTH THE CIVIL AND CRIMINAL JUSTICE SYSTEMS -- ARE NOT, IN THE END, PRODUCING THE RESULTS THEY SHOULD BE -- THEY ARE NOT METING OUT JUSTICE.

THERE IS THE SENSE (OUT THERE) THAT WE LAWYERS HAVE SET UP AN ARCANE SYSTEM OF ELABORATE PROCESSES AND PROCEDURES WHICH WE THEN MANIPULATE AT GREAT PROFIT TO OURSELVES. BUT, AFTER MUCH COMMOTION AND EXPENSE, THE PROCESS DOES NOT DELIVER THE PRODUCT IT IS SUPPOSED TO -- NAMELY, A JUST RESULT.

BECAUSE WE LAWYERS ARE SO SCHOOLED IN PROCEDURES, PERHAPS WE TEND TO FORGET THAT JUSTICE INHERES LESS IN THE PROCESS WE GO THROUGH TO REACH A RESULT THAN IN THE QUALITY OF THE RESULT WE ACTUALLY ACHIEVE.

IN OTHER WORDS, DOING JUSTICE IS ULTIMATELY A MATTER OF ACHIEVING JUST RESULTS.

THAT IS THE WHOLE PURPOSE OF A LEGAL SYSTEM.

JUSTICE IS DONE WHEN THE CRIMINAL WRONGDOER RECEIVES APPROPRIATE PUNISHMENT.

JUSTICE IS DONE WHEN ONE WHO HAS CIVILLY HARMED ANOTHER IS COMPELLED TO MAKE THE INJURED PERSON WHOLE.

THIS DOES NOT MEAN THAT PROCESS AND PROCEDURES ARE UNIMPORTANT. THEY ARE VERY IMPORTANT. BUT WE SHOULD NOT LOSE SIGHT OF THE FACT THAT LEGAL PROCESS IS A MEANS TO AN END, NOT AN END IN ITSELF. WE HAVE ADOPTED LEGAL PROCESSES AND PROCEDURES PRECISELY TO FACILITATE THE FAIR, ACCURATE, REASONABLY PROMPT, AND ULTIMATELY JUST RESOLUTION OF CASES.

PEOPLE WILL NOT LONG REMAIN LOYAL TO A LEGAL PROCESS SIMPLY BECAUSE IT IS TIDY -- THEY MUST SEE - MORE OFTEN THAN NOT -- JUSTICE BEING DONE IN THE END.

AS APPLIED THROUGH MOST OF OUR HISTORY, OUR LEGAL PROCEDURES -- WITH ALL THEIR FAMILIAR GUARANTEES -- HAVE BEEN EFFECTIVE NOT ONLY IN FAIRLY PROTECTING THE RIGHTS OF CIVIL LITIGANTS AND CRIMINAL DEFENDANTS, BUT ALSO IN SERVING THEIR ULTIMATE PURPOSE OF FINDING THE TRUTH AND REACHING THE JUST RESULT.

TODAY, HOWEVER, I THINK THE PUBLIC'S CONFIDENCE IN THE LEGAL SYSTEM IS BEING UNDERMINED.

THERE IS A FEELING, I THINK, THAT WE LAWYERS HAVE BECOME SO OBSESSED WITH PROCESS THAT WE ARE SACRIFICING THE ABILITY OF THE SYSTEM TO PRODUCE JUST RESULTS.

MANY PEOPLE NOW SEE LAWYERS AS SHARP MANIPULATORS OF A PROCESS, RATHER THAN STEWARDS OF A SYSTEM THAT IS DIRECTED AT ACHIEVING THE RIGHTEOUS RESOLUTION OF DISPUTES.

THIS EROSION OF CONFIDENCE CLEARLY PERTAINS TO THE CRIMINAL JUSTICE SYSTEM.

MANY PEOPLE ARE CONCERNED THAT PROCEDURAL TECHNICALITIES ARE BEING ABUSED AND EXPLOITED TO THE POINT THAT, ALL TOO FREQUENTLY, THE GUILTY GO UNPUNISHED.

THE PROCESS SOMETIMES APPEARS TO BE A TECHNICAL GAME THAT HAS LITTLE TO DO WITH TRUTH FINDING OR DETERMINING ACTUAL GUILT OR INNOCENCE.

AND EVEN WHERE THE WRONGDOER IS FINALLY BROUGHT TO JUSTICE, THERE ARE FREQUENTLY ENORMOUS DELAYS.

THE PUBLIC LOSES THE SENSE THAT JUSTICE IS BEING DONE WHEN PUNISHMENT IS TOO FAR REMOVED FROM THE OFFENDING CONDUCT.

WHETHER WHOLLY DESERVED OR NOT, THE PUBLIC TENDS TO BLAME THE LEGAL PROFESSION FOR THE PERCEIVED DEFICIENCIES.

THE SAME IS TRUE FOR THE CIVIL JUSTICE SYSTEM.

THE LEGAL PROCESS ON THE CIVIL SIDE, SHOULD ENSURE REASONABLY PROMPT, AND ACCURATE, RESOLUTION OF DISPUTES.

INDEED, CIVIL PROCEDURE HAS GONE THROUGH A SERIES OF REFORMS IN ORDER TO ACHIEVE THAT GOAL. FOR EXAMPLE, ONE LARGE SCALE REFORM, RELATING TO THE RULES OF PLEADING, WAS A RESPONSE TO WHAT WAS PERCEIVED AS THE OVERLY TECHNICAL NATURE OF THE SYSTEM -- ONE THAT DENIED JUSTICE FOR ALL SORTS OF TECHNICAL REASONS UNRELATED TO THE MERITS OF THE UNDERLYING DISPUTE.

ANOTHER REFORM, THE INTRODUCTION OF DISCOVERY, WAS ALSO A RESPONSE TO A PERCEIVED INJUSTICE IN THE SYSTEM -- THE THOUGHT THAT TRIAL BY SURPRISE, RATHER THAN A SEARCH FOR THE TRUTH, RESULTED IN UNJUST RESULTS.

WELL, WE ARE AGAIN AT A STAGE WHERE THERE IS A WIDESPREAD PERCEPTION THAT THE CIVIL LAW SYSTEM IS NOT DOING A GOOD ENOUGH JOB OF DISPENSING JUSTICE.

THE PROCESS HAS BECOME EXTREMELY PROTRACTED AND COSTLY. AN INCREASING AMOUNT OF LEGAL ENERGY IS DEVOTED TO TORTUOUS MANEUVERING THAT SEEMS TO HAVE LITTLE TO DO WITH ARRIVING AT THE TRUTH.

DISCOVERY ABUSE IS LEGION, AND LEGENDARY.

LAWYERS ARE CRITICIZED FOR USING THE SYSTEM FOR DELAY, TO IMPOSE COSTS, FOR ADVANTAGE IN BUSINESS OR OTHER DEALINGS, TO EXTORT SETTLEMENTS, OR FOR OTHER REASONS BESIDES LEGITIMATE COMPENSATION FOR WRONGS SUFFERED.

INDEED, WE NOW SEE A WHOLE ALTERNATIVE SYSTEM OF DISPUTE RESOLUTION BEING DEVELOPED IN ORDER TO BY-PASS WHAT IS SEEN AS A WASTEFUL AND INEFFICIENT LEGAL SYSTEM -- I'M SPEAKING HERE OF ARBITRATION, MEDIATION, AND OTHER SO-CALLED A.D.R. TECHNIQUES.

AS LAWYERS I THINK WE SHOULD TAKE TO HEART THIS GROWING DISSATISFACTION WITH THE LEGAL SYSTEM.

AS LAWYERS WE SHOULD BE FIRST IN LINE WHEN IT COMES TO BEING WILLING TO RE-EXAMINE THE WAY WE DO BUSINESS AND IMPROVING UPON IT.

THIS ADMINISTRATION HAS SOUGHT TO PLAY A LEADERSHIP ROLE IN REFORMING BOTH THE CRIMINAL AND CIVIL JUSTICE SYSTEMS. LEGAL REFORM IS A HIGH PRIORITY OF THE PRESIDENT AND HIS ADMINISTRATION.

WE HAVE DEVELOPED A NUMBER OF INITIATIVES DESIGNED TO INCREASE THE ABILITY OF AMERICA'S LEGAL SYSTEM TO ACHIEVE ITS INTENDED PURPOSE OF BRINGING JUSTICE TO ALL PEOPLE.

WITH REGARD TO CRIMINAL JUSTICE REFORM, THE PRESIDENT HAS SENT TO CONGRESS A PACKAGE OF REFORMS FOR THE FEDERAL CRIMINAL JUSTICE SYSTEM THAT WILL INCREASE FAIRNESS BY REDUCING THE PROCEDURAL DELAYS AND LOOPHOLES THAT FRUSTRATE VICTIMS AND OFTEN PROLONG THEIR SUFFERING.

AS FOR REFORM ON THE STATE LEVEL, WE RECENTLY ISSUED OUR VIOLENT CRIME REPORT WHICH CONTAINS 24 RECOMMENDATIONS FOR STATE CRIMINAL JUSTICE REFORM. THIS WAS DONE WITH BROAD BI-PARTISAN SUPPORT.

ON THE CIVIL SIDE, THE ADMINISTRATION HAS IDENTIFIED MANY OF THE MOST SERIOUS PROBLEMS WITH THE CURRENT SYSTEM OF CIVIL JUSTICE AND HAS DEVELOPED A COMPREHENSIVE PACKAGE OF REFORMS FOR BOTH THE FEDERAL AND STATE LEVEL.

THE PRESIDENT HAS UNILATERALLY INITIATED REFORM OF THE FEDERAL CIVIL SYSTEM BY ISSUING AN EXECUTIVE ORDER THAT INCLUDES REQUIRING FEDERAL GOVERNMENT ATTORNEYS TO SEEK ALTERNATIVES TO LITIGATION AND TO REDUCE UNNECESSARY DISCOVERY.

WE HAVE ALSO PRESENTED CONGRESS WITH A PROPOSAL FOR LEGISLATIVE REFORM, SUGGESTED CHANGES TO THE RULES OF CIVIL PROCEDURE, AND DEVELOPED MODEL ACTS FOR REFORM AT THE STATE LEVEL.

AS YOUR ORGANIZATION GROWS AND BECOMES A LARGER VOICE IN THE ONGOING DEBATES ABOUT AMERICA'S LEGAL SYSTEM, I URGE YOU TO BE AN ADVOCATE FOR REFORM.

I HOPE YOU WILL GIVE THESE INITIATIVES CAREFUL CONSIDERATION.

PERHAPS YOU WILL IDENTIFY ADDITIONAL CHANGES THAT WOULD INCREASE THE FAIRNESS OF OUR LEGAL SYSTEM. I AM ALWAYS READY TO WORK WITH YOU AND YOUR COLLEAGUES IN THIS REGARD.

CHALLENGE THE STATUS QUO -- NOT TO BE SATISFIED WITH THE
WAYS OF THE PAST, BUT TO SEEK BETTER WAYS OF SERVING THE PUBLIC,
TO PROMOTE THE CAUSE OF JUSTICE, AND IN SO DOING, TO STRENGTHEN
THE PEACE AND PROSPERITY OF AMERICA.

THANK YOU VERY MUCH.

24

SWEARING-IN CEREMONY FOR HENRY E. HUDSON
AS
DIRECTOR, UNITED STATES MARSHALS SERVICE

IT IS A PLEASURE TO BE HERE TODAY TO ADMINISTER THE OATH OF OFFICE TO HENRY HUDSON TO BE THE DIRECTOR OF THE UNITED STATES MARSHALS SERVICE.

THE MARSHALS SERVICE IS THE NATION'S OLDEST AND MOST VERSATILE FEDERAL LAW ENFORCEMENT AGENCY. IT DATES BACK TO THE FIRST CONGRESS IN 1789.

AMONG OTHER THINGS THE MARSHALS HAVE RESPONSIBILITIES FOR APPREHENDING FUGITIVES, PROTECTION OF THE JUDICIAL SYSTEM, HANDLING PRISONERS, WITNESS PROTECTION.

MARSHALS VERSITILITY ALSO EVIDENT DURING RESPONSE TO ST. CROIX, LOS ANGELES, NOW HURRICANE ANDREW.

THE TRAGIC DEATH A FEW WEEKS AGO OF DEPUTY UNITED STATES MARSHAL BILL DEGAN, WHILE ON A SURVEILLANCE MISSION IN IDAHO, AND THE DEATHS OF DEPUTY MARSHAL ROY RAKES AND COURT SECURITY OFFICER HARRY BELLUOMINI IN CHICAGO ON JULY 21ST, SERVED AS REMINDERS OF THE DEDICATION OF THE U.S.M.S. AND THE PERSONAL SACRIFICES AND CONSTANT EXPOSURE TO DANGER OF UNITED STATES MARSHALS AROUND THE COUNTRY.

LET ME TURN FOR A MOMENT TO THE MAN WE ARE HONORING HERE TODAY. HENRY HAS HAD AN OUTSTANDING CAREER AS A PRIVATE ATTORNEY IN VIRGINIA AND AS A LOCAL AND FEDERAL PROSECUTOR. HE HAS SERVED AS AN ASSISTANT COMMONWEALTH ATTORNEY, ASSISTANT U.S. ATTORNEY AND AS U.S. ATTORNEY FOR THE EASTERN DISTRICT OF VIRGINIA. HE HAS ALSO SERVED AS CHAIRMAN OF THE PORNOGRAPHY COMMISSION, BEEN ACTIVE IN HIS NORTHERN VIRGINIA COMMUNITY. NEEDLESS TO SAY, HENRY IS AN OUTSTANDING CHOICE BY THE PRESIDENT TO HEAD THE MARSHAL'S SERVICE.

HENRY IS CERTAINLY WELL KNOWN TO YOU ALL SINCE HE HAS BEEN SERVING AS ACTING DIRECTOR SINCE FEBRUARY 24, 1992. AND, HE HAS HAD AN EVENTFUL AND SUCCESSFUL TENURE EVEN BEFORE HIS FORMAL SWEARING-IN.

EARLIER THIS YEAR, THE MARSHAL'S SERVICE CONDUCTED "OPERATION GUNSMOKE" A TEN-WEEK, NATIONWIDE MANHUNT THAT RESULTED IN THE ARREST OF 3,313 OF THE COUNTRY'S MOST DANGEROUS FUGITIVES -- INCLUDING 224 CHARGED WITH OR PREVIOUSLY CONVICTED OF MURDER - - AND THE SEIZURE OF \$1.9 MILLION IN CASH AND PROPERTY AND MORE THAN 730 GUNS AND OTHER WEAPONS.

HENRY HUDSON'S LEADERSHIP WAS EVIDENT THROUGHOUT THIS SUCCESSFUL OPERATION.

GIVEN HIS SUCCESS AS ACTING DIRECTOR IT IS CERTAINLY FITTING THAT TODAY WE FORMALLY TURN THE REIGNS OF THIS GREAT ORGANIZATION OVER TO HIM.

LET ME ADD ONE PERSONAL NOTE BEFORE ADMINISTERING THE OATH. ONE CLEAR INDICATION OF HENRY'S DEDICATION TO DUTY, WAS HIS WILLINGNESS TO ASSUME THE POSITION OF DIRECTOR ON AN ACTING BASIS BEFORE HIS CONFIRMATION. CONVENTIONAL WISDOM IN WASHINGTON IS THAT A NOMINEE SHOULD NOT ASSUME THEIR POSITION BEFORE CONFIRMATION -- THAT IT CAN ONLY LEAD TO PROBLEMS FOR THE INDIVIDUAL INVOLVED. HENRY PUT THE NEEDS OF THE MARSHAL'S SERVICE AND THE DEPARTMENT AHEAD OF HIS PERSONAL INTERESTS AND I AM VERY GRATEFUL TO HIM FOR THAT.

THEREFORE, IT IS WITH GREAT PLEASURE THAT I ADMINISTER THE OATH OF OFFICE.

(PROCEED WITH OATH OF OFFICE)

REMARKS OF

WILLIAM P. BARR

ATTORNEY GENERAL OF THE UNITED STATES

TO THE

CONYERS ROTARY CLUB

CONYERS, GEORGIA

SEPTEMBER 17, 1992

THANK YOU VERY MUCH. I WOULD LIKE TO SHARE MY THOUGHTS WITH YOU ABOUT THE NATURE OF THE VIOLENT CRIME PROBLEM THAT WE FACE AND WHAT WE ARE DOING ABOUT IT.

I DON'T HAVE TO TELL YOU HOW SERIOUS THE PROBLEM IS THESE DAYS.

VIOLENCE IS AT INTOLERABLY HIGH LEVELS. WE SEE MURDER AND RAPE ON THE INCREASE; GANG VIOLENCE SPREADING; MORE AND MORE CRIME COMMITTED BY JUVENILES.

CRIME SEEMS TO BE MORE VICIOUS AND COLD-BLOODED AND WANTON THAN EVER.

WE, AS A PEOPLE, TEND TO BECOME PREOCCUPIED WITH THE NEWS OF THE DAY AND THE CURRENT PRESSING PROBLEMS -- WHETHER IT BE A FOREIGN POLICY CRISIS OR AN ADVERSE TURN IN THE BUSINESS CYCLE.

BUT WHEN YOU STEP BACK FROM THE NEWS OF THE DAY, THERE IS NO DEVELOPMENT THAT IS MORE PROFOUND OR APPALLING THAN THE EPIDEMIC OF VIOLENCE THAT HAS GRIPPED OUR COUNTRY FOR THE PAST THREE DECADES.

THINGS WEREN'T ALWAYS THIS WAY. UP UNTIL 1960, THE LEVEL OF VIOLENT CRIME FLUCTUATED, BUT STAYED WITHIN REASONABLE BOUNDS. SINCE 1960, VIOLENT CRIME HAS INCREASED FIVEFOLD. THAT'S AMAZING WHEN YOU STAND BACK AND LOOK AT IT.

THREE DECADES -- A FIVEFOLD INCREASE IN VIOLENT CRIME. NO OTHER SOCIETY THAT KEEPS RELIABLE RECORDS COMES CLOSE. THIS GREAT REPUBLIC HAS THE HONOR OF BEING THE MOST VIOLENT CRIMINAL SOCIETY IN THE WORLD.

IT'S INTERESTING TO LOOK AT THE WHOLE PICTURE. MOST OF THE EXPLOSION IN VIOLENCE OCCURRED IN THE 1960S AND 70S. WE WENT FROM 150 REPORTED CRIMES PER 100,000 TO 600 PER 100,000 IN 1980.

IN THE TWELVE YEARS SINCE THEN, WE'VE GONE UP ABOUT ANOTHER 180. SO ESSENTIALLY, IN THE 60S AND 70S WE HAD A 400% INCREASE. AND IN THE ENSUING TWELVE YEARS, WE HAVE HAD A 25% INCREASE.

WHILE THE GOOD NEWS MAY BE THAT THE TRAJECTORY IS LEVELING OFF, AND WE'VE MADE SOME PROGRESS, THE BOTTOM LINE IS THAT VIOLENT CRIME TODAY IS AT INTOLERABLY HIGH LEVELS AND IS STILL GROWING.

THERE WAS AN EPISODE LAST WEEK IN WASHINGTON THAT REALLY EPITOMIZES WHAT I'M TALKING ABOUT. A YOUNG MOTHER WAS DRIVING OUT OF HER SUBURBAN MARYLAND NEIGHBORHOOD TO GO TO WORK.

SHE WAS GOING TO DROP OFF HER TWO YEAR-OLD DAUGHTER AT DAYCARE. SHE WAS STILL IN HER NEIGHBORHOOD -- MIDDLE CLASS NEIGHBORHOOD. TWO MALES PULLED HER OUT OF HER CAR, TOOK HER CAR -- CARJACKED -- WITH HER BABY IN THE CAR. IT IS UNCLEAR WHETHER SHE WAS CAUGHT IN THE DOOR PARTIALLY OR WHETHER SHE WAS HOLDING ONTO THE CAR BECAUSE HER CHILD WAS STILL IN THE CAR.

IN ANY EVENT, SHE WAS DRAGGED A MILE AND A HALF AND INTERMITTENTLY THE TWO CARJACKERS WOULD BANG UP AGAINST OBJECTS TO TRY TO PEEL HER OFF. SHE DIED AND FELL OFF THE CAR AFTER A MILE AND A HALF.

DURING THIS EPISODE, THE TWO THREW THE BABY IN THE CARSEAT OUT OF THE CAR -- FORTUNATELY THE CHILD SURVIVED.

THESE KIND OF BRUTAL CRIMES ARE BECOMING ALL TOO FREQUENT, ALL TOO COMMON IN OUR SOCIETY.

BUT WE CAN'T ALLOW OURSELVES TO BE INURED TO IT. WE HAVE TO DO SOMETHING ABOUT THIS.

WELL, WHAT CAN WE DO ABOUT THE EPIDEMIC OF VIOLENCE? CAN WE ACTUALLY REDUCE THE LEVEL OF VIOLENCE IN OUR SOCIETY?

ARE WE DOOMED AS A SOCIETY TO SIT BACK AND WATCH THIS EVER INCREASING LEVEL OF VIOLENCE?

THERE ARE BASICALLY TWO APPROACHES THAT ARE OFFERED TODAY IN PUBLIC DISCUSSION ON THIS SUBJECT.

YOU HAVE THE ONE APPROACH THAT SAYS: CRIME IS CAUSED BY CRIMINALS, AND YOU DEAL WITH CRIME BY GETTING TOUGHER WITH CRIMINALS. YOU DETER CRIME, YOU PUNISH CRIME, YOU INCAPACITATE THE CRIMINAL.

THEN THERE'S THE OTHER APPROACH -- AND YOU KNOW, YOU'VE HEARD THIS -- WHICH IS CRIME ULTIMATELY IS CAUSED BY SOCIETAL ILLS, AND THE WAY TO DEAL WITH CRIME IS TO ATTACH THE "ROOT CAUSES" OF CRIME THROUGH SOCIAL PROGRAMS.

NOW, THE FACT IS THAT ULTIMATELY WE NEED A MIXTURE OF BOTH. WE DO NEED BOTH APPROACHES TO SOME EXTENT, AND IT'S A QUESTION OF BALANCE.

WE NEED AGGRESSIVE STEPS TO DEAL WITH THE CRIMINAL OF TODAY WHO'S WREAKING HAVOC ON THE STREETS TODAY. IT'S NICE TO PLAN FOR AND DREAM ABOUT A BETTER TOMORROW.

BUT THE CITIZENS OF TODAY DESERVE PROTECTION TODAY.

AND AT THE SAME TIME, UNQUESTIONABLY, WE HAVE TO DO ALL THAT

WE CAN, TO THE EXTENT WE CAN, TO PREVENT THE YOUTH OF TODAY FROM BECOMING THE HARDENED CRIMINAL OF TOMORROW.

BUT I'M AFRAID THAT TOO MANY OF THESE "ROOT-CAUSE-SCHOOL" PEOPLE FAIL TO APPRECIATE THE IMPORTANCE OF STRONG AND SUPPRESSIVE LAW ENFORCEMENT. THEY TEND TO SEE RELIANCE ON POLICE, PROSECUTORS, AND PRISONS, AS SOMEHOW UNENLIGHTENED AND OVERLY PUNITIVE.

THEY PRESENT SOCIAL PROGRAMS AS AN ALTERNATIVE TO THEM, AS A SUBSTITUTE FOR STRONG LAW ENFORCEMENT.

I HEAR IT ALL THE TIME: "WE SHOULDN'T BE SPENDING MORE MONEY ON PRISONS AND POLICE AND PROSECUTORS AND FBI AGENTS AND SO FORTH; WE SHOULD BE SPENDING MONEY ON MORE SCHOOLS, MORE PUBLIC HOUSING, MORE ANTI-POVERTY PROGRAMS."

THIS IS THE TRENDY POSITION TO HAVE NOWADAYS. THE NEW REVISIONIST HISTORY IS THAT LAW ENFORCEMENT REALLY HASN'T HAD ANY IMPACT, SO LET'S SWITCH TO SOCIAL PROGRAMS INSTEAD.

I THINK THAT THOSE THAT GIVE SHORT SHRIFT TO STRONG LAW ENFORCEMENT ARE MISSING A BASIC POINT: THAT IN THIS PERVASIVE ATMOSPHERE IN FEAR OF VIOLENCE, NONE OF THESE SOCIAL PROGRAMS CAN TAKE HOLD AND BE SUCCESSFUL.

OUR EFFORTS AT SOCIAL REHABILITATION ARE BEING STRANGLERED BY CRIME TODAY.

THE FACT IS WE'VE BEEN DOING THE "ROOT-CAUSES" STRATEGY FOR THE LAST 25 YEARS. WHAT IS THE GREAT SOCIETY ALL ABOUT? WE HAVE BEEN POURING TRILLIONS OF DOLLARS INTO THIS.

SPENDING NOW STANDS AT RECORD LEVELS. JUST ON ANTI-POVERTY PROGRAMS, IT'S \$290 BILLION A YEAR. AND IT'S HAD REAL INCREASES EVERY SINGLE YEAR SINCE 1965.

THAT IS \$3,111 FOR EACH TAXPAYER TODAY. AND THAT'S HOW MUCH THEY ARE PUTTING JUST INTO ANTI-POVERTY PROGRAMS.

WHEN YOU INCLUDE NON-MEANS-TESTED PROGRAMS, LIKE EDUCATION AND HEALTH CARE, WE ARE SPENDING PER TAXPAYER MANY THOUSANDS OF DOLLARS ON ATTACKING THE "ROOT CAUSES."

IT'S BECOMING INCREASINGLY CLEAR, HOWEVER, THAT THESE EFFORTS ARE BEING DEFEATED AND THAT THE ABSOLUTE PREREQUISITE FOR THEIR SUCCESS IS STRONG LAW ENFORCEMENT.

WHAT GOOD IS IT TO BUILD A HOUSING PROJECT AND HAVE IT TURN INTO A STASH HOUSE?

WHAT GOOD IS IT TO BUILD A MODEL SCHOOL AND INVEST ALL THAT MONEY IN EDUCATION, WHICH WE ARE DOING, TO SEE THE SCHOOLS BE TAKEN OVER BY GANGS?

IT IS CLEAR THAT OUR SOCIAL PROGRAMS TO ATTACK "ROOT CAUSES" ARE NOT GOING TO WORK UNLESS THEY'RE SUPPORTED BY, AND BUILT UPON, A STRONG FOUNDATION OF TOUGH LAW ENFORCEMENT.

NOW, HOW DO WE GO ABOUT REDUCING CRIME? WHAT IS THE PROGRAM FOR TOUGH LAW ENFORCEMENT AGAINST VIOLENT CRIME?

FROM A LAW ENFORCEMENT STANDPOINT, THE EVIDENCE IS CLEAR THAT THE PROBLEM OF VIOLENT CRIME TODAY IS LARGELY THE PROBLEM OF THE CHRONIC VIOLENT OFFENDER.

THAT'S THE KIND OF VIOLENT CRIME SOCIETY CAN DO SOMETHING ABOUT. IT'S THE CONTROLLABLE AND PREVENTABLE PART OF VIOLENT CRIME.

THERE ARE NUMEROUS STUDIES THAT SHOW THAT A TINY FRACTION OF THE POPULATION IS RESPONSIBLE FOR THE VAST MAJORITY OF THIS PREDATORY VIOLENCE.

THERE'S THE FAMOUS CALIFORNIA STUDY OF A LARGE GROUP OF MALES IN CALIFORNIA THAT FOUND THAT JUST ABOUT FOUR PERCENT OF

THE GROUP COMMITTED ABOUT 60 PERCENT OF THE CRIME. AND THAT'S BEEN BORNE OUT IN STUDY AFTER STUDY.

ANOTHER FAMOUS STUDY FOLLOWED 240 CRIMINALS FOR A PERIOD OF 11 YEARS AND FOUND THAT THEY COMMITTED HALF A MILLION CRIMES. THAT'S AN AVERAGE OF 190 CRIMES A YEAR.

YOU KNOW THE PROFILE OF THE PEOPLE I AM TALKING ABOUT. THESE ARE PEOPLE WHO START COMMITTING CRIMES AS JUVENILES. THEY GO RIGHT ON COMMITTING CRIMES AS ADULTS. THE RECIDIVISM IS A VIRTUAL CERTAINTY.

WHENEVER THEY ARE PUT OUT OF CUSTODY, WHETHER IT BE ON BAIL OR PROBATION OR PAROLE, THEY ARE VIRTUALLY CERTAIN TO COMMIT MORE CRIMES. AND YOU SEE THAT IN THE NEWSPAPER EVERY DAY.

THESE ARE NOT NOVICES OUT THERE COMMITTING THESE CRIMES. THESE ARE PEOPLE WHO HAVE CRIMINAL RECORDS, AND INCREASINGLY, THEY ARE PEOPLE WHO ARE ALREADY UNDER JUDICIAL SUPERVISION, ON BAIL OR PROBATION.

LET'S LOOK AT THAT MARYLAND CASE I DESCRIBED TO YOU, THAT CAR-JACKING CASE.

THE POLICE HAVE ARRESTED TWO SUSPECTS IN THAT CASE. ONE OF THEM IS A 26-YEAR OLD, IN 1983 ARRESTED FOR ROBBERY, PLED TO A

LESSER CHARGE, PUT ON PROBATION; IN 1984 ARRESTED FOR ROBBERY, PROBATION REVOKED, SERVED A BRIEF TIME.

1991, ASSAULT WITH INTENT TO KILL, SHOT A PERSON IN THE FACE; THAT CHARGE WAS ULTIMATELY DISMISSED. FIVE MONTHS LATER, ARRESTED FOR DISTRIBUTION OF HEROIN AND COCAINE.

HE WAS RELEASED UNDER A PROGRAM CALLED "OPERATION PROGRESS".

OPERATION PROGRESS WAS COMMUNITY-BASED CLOSE SUPERVISION IN YOUR HOME WITH TWO URINALYSES A WEEK. AND WHILE ON OPERATION PROGRESS, HE WAS ARRESTED AGAIN FOR PRECISELY THE SAME OFFENSE, DISTRIBUTION OF HEROIN AND COCAINE.

AND WHAT HAPPENED?

THE JUDGE LET HIM OUT ON BAIL. BAIL WAS SET AT \$5,000. HE COULDN'T PAY, SO HE WAS RELEASED WITHOUT PAYING A DIME.

THE JUDGE CLAIMED HE HAD NO CHOICE UNDER THE NEW BAIL REFORM LAW IN THE DISTRICT OF COLUMBIA.

SO MUCH FOR OPERATION PROGRESS. THERE WAS NOT MUCH PROGRESS FOR MRS. BASU, WHO WAS THE WOMAN KILLED IN THE CAR-JACKING.

THESE STORIES ARE REPEATED DAY AFTER DAY IN EVERY MAJOR CITY ACROSS THE COUNTRY.

AND WITH THIS TYPE OF HABITUAL OFFENDER I AM TALKING ABOUT, ONE THING IS CLEAR: THE ONLY TIME THEY ARE NOT COMMITTING CRIMES IS WHEN THEY'RE LOCKED UP IN PRISON.

IN COMBATting VIOLENT CRIME, OUR PRIMARY OBJECTIVE IN SOCIETY HAS TO BE TO MAKE SURE OUR CRIMINAL JUSTICE SYSTEM TARGETS AND INCAPACITATES THIS HARD-CORE GROUP OF OFFENDERS, MAKING THEM SERVE LONG SENTENCES -- A PERIOD OF TIME DICTATED BY THE PUBLIC SAFETY.

IT IS MY VIEW THAT IN OUR LIFETIME, OR IN OUR CHILDREN'S LIFETIMES, THAT'S THE ONLY POLICY THAT WILL ACTUALLY HAVE ANY PROSPECT OF REDUCING VIOLENT CRIME.

I THINK HISTORY SHOWS THAT TOUGH INCARCERATION POLICIES WORK. PUTTING VIOLENT OFFENDERS BEHIND BARS WORKS.

IN THE 1960S AND '70S, INCARCERATION RATES DROPPED SUBSTANTIALLY. THEY DROPPED BY 20 PERCENT DURING THOSE TWO DECADES. WE STOPPED PUTTING PEOPLE IN PRISON, AND THOSE THAT WE DID PUT IN PRISON, WE PUT IN FOR SHORTER SENTENCES.

THE RESULT? VIOLENT CRIME, AS I TOLD YOU, WENT UP 400 PERCENT IN THE TWO DECADES.

IT WAS IN 1980 THAT WE STARTED GETTING TOUGH. WE REFORMED THE FEDERAL SYSTEM. MANY STATES REFORMED THEIR SYSTEMS.

WE STARTED BUILDING PRISONS. WE PUT A HIGHER PERCENTAGE OF PEOPLE IN PRISON, AND PRISON TERMS GOT LONGER.

AND, NATIONALLY, WHAT HAPPENED? THE SPIRALING CRIME RATES OF THE '60S AND '70S ABRUPTLY STOPPED, LEVELED OFF, AND ACTUALLY DECLINED FOR SEVERAL YEARS.

NOW, UNFORTUNATELY, WHEN WE LOOK ACROSS THE NATION TODAY -- WHILE WE HAVE ACCOMPLISHED A LOT, WHILE THINGS COULD BE WORSE BUT FOR WHAT WE DID IN THE 1980S -- WE STILL ARE NOT DOING A GOOD JOB ON THESE CHRONIC OFFENDERS.

WE ARE GOING BACK TO A REVOLVING-DOOR SYSTEM OF JUSTICE -- NOT ON THE FEDERAL LEVEL, BUT IN MANY STATES.

THERE ARE THREE BASIC REASONS WE ARE SEEING THIS SURGE IN VIOLENT CRIME.

FIRST, THE CRACK EPIDEMIC.

SECOND, THE BREAKDOWN OF THE FAMILY, THE SOARING ILLEGITIMACY RATES WE ARE SEEING.

ILLEGITIMACY HAS TRIPLED SINCE 1965 ACROSS SOCIETY.

IN MANY INNER CITIES IT'S NOW 70 TO 80 PERCENT ILLEGITIMACY RATES; KIDS ARE BEING RAISED WITHOUT MORAL GUIDANCE.

IT STARTED IN THE LATE '60S, EARLY '70S, AND NOW THE CHICKENS ARE COMING HOME TO ROOST. THIS IS WHY WE SEE INCREASED JUVENILIZATION OF CRIME.

THE THIRD REASON IS THE RELAPSING OF STATES TO A REVOLVING-DOOR SYSTEM OF JUSTICE. ACROSS THE NATION RIGHT NOW, THERE ARE HUNDREDS OF THOUSANDS OF INDIVIDUALS THAT WERE CYCLED THROUGH THE SYSTEM BECAUSE OF LACK OF PRISON CAPACITY, AND PUT BACK OUT ON THE STREETS TO MAKE ROOM FOR THE NEXT WAVE.

BY AND LARGE, THE POLICE AND PROSECUTORS ARE DOING A GREAT JOB ACROSS THE COUNTRY APPREHENDING AND PROSECUTING VIOLENT OFFENDERS.

BUT THEN THEY ARE BEING LET DOWN BY THE REST OF THE SYSTEM -- THEIR EFFORTS ARE BEING NULLIFIED BECAUSE INDIVIDUALS ARE PREMATURELY RELEASED, LARGELY BECAUSE STATES WILL NOT INVEST IN SUFFICIENT PRISON CAPACITY OR JAIL CAPACITY TO HOLD THEM.

RIGHT NOW, THE AVERAGE SENTENCE SERVED IS 37 PERCENT OF THE SENTENCE GIVEN, AND IT'S DROPPING.

WE SEE FIVE OUT OF EIGHT FELONS WHO ARE RELEASED, REARRESTED FOR A SERIOUS CRIME WITHIN THREE YEARS.

WE SEE CRIMES LIKE RAPE WHERE THE AVERAGE SENTENCE IS EIGHT YEARS, BUT THE AVERAGE TIME SERVED IS THREE YEARS. THREE YEARS IS THE PRICE OF RAPE IN THE UNITED STATES.

WHAT DOES THAT SAY OF OUR VALUES HERE?

THIRTY PERCENT OF ALL MURDERS IN THIS COUNTRY --6,500 OF OUR FELLOW CITIZENS -- ARE SLAUGHTERED EVERY YEAR BY PEOPLE WHO ARE ON BAIL, PROBATION, OR PAROLE AT THE TIME OF THE MURDER.

IF WE ARE GOING TO REDUCE VIOLENT CRIME, WE ARE GOING TO HAVE TO STOP THIS REVOLVING DOOR.

IT'S GOING TO TAKE A GREAT DEAL OF COMMITMENT, PARTICULARLY AT THE STATE LEVEL.

SPECIFICALLY, IT'S GOING TO REQUIRE RESOURCES, REFORM, AND AN UNPRECEDENTED LEVEL OF COOPERATION AMONG LAW ENFORCEMENT

AGENCIES TO TARGET OUR RESOURCES WHERE THEY WILL DO THE MOST GOOD.

IN FACT, ON THE FEDERAL LEVEL WE HAVE BEEN FORTUNATE.

THE PRESIDENT HAS MADE LAW ENFORCEMENT A PRIORITY.

THE DEPARTMENT OF JUSTICE'S BUDGET HAS INCREASED 70 PERCENT DURING THE PAST FOUR YEARS. WE HAVE DOUBLED OUR PRISON CAPACITY IN THE PAST THREE YEARS.

THIS COMMITMENT HAS TO BE MATCHED AT THE STATE LEVEL. NOW IS NOT THE TIME TO SKIMP.

THERE ARE TIGHT BUDGETS IN THE STATES. A LOT OF GOVERNORS ARE CUTTING THE STATE BUDGETS. BUT LAW ENFORCEMENT SHOULD COME FIRST BECAUSE IT IS THE FIRST DUTY OF GOVERNMENT.

REFORM IS NECESSARY.

YOU CAN PUT ALL THE RESOURCES TO BEAR YOU WANT, PUT ALL THE POLICE ON THE STREET THAT YOU WANT. BUT IF THE CRIMINAL JUSTICE SYSTEM IS A SIEVE, THEN IT'S WORTHLESS. WE STILL HAVE TO REFORM OUR CRIMINAL JUSTICE SYSTEM IN THIS COUNTRY.

NOW, YOU KNOW THAT IN THE 1980S WE MADE GREAT STRIDES AT THE FEDERAL LEVEL.

WE GOT STRONG PRE-TRIAL DETENTION; WE ABOLISHED PAROLE; WE GOT STIFF MANDATORY MINIMUM SENTENCES.

NOW THE FEDERAL GOVERNMENT HAS THE TOUGHEST CRIMINAL JUSTICE SYSTEM IN THIS COUNTRY, AND THERE'S NO QUESTION ABOUT IT.

BUT NO MATTER WHAT WE DO AT THE FEDERAL LEVEL, WE CAN ONLY HAVE A LIMITED IMPACT. REFORM HAS TO BE AT THE STATE LEVEL, WHERE MOST OF THE CRIME IS COMMITTED.

ON JULY 28TH, I ISSUED A VIOLENT CRIME REPORT THAT GAVE CITIZENS A CHECKLIST FOR ASSESSING THEIR STATE CRIMINAL JUSTICE SYSTEM -- HOW TO UNDERSTAND THE CRIMINAL JUSTICE SYSTEM AND TELL WHAT IT IS DOING RIGHT AND WHAT IT IS DOING WRONG.

IT CONTAINS 24 SPECIFIC RECOMMENDATIONS FOR STRENGTHENING THE CRIMINAL JUSTICE SYSTEM, INCLUDING PRE-TRIAL DETENTION, ABOLITION OF PAROLE, TRUTH IN SENTENCING, PROTECTION OF VICTIMS, AND MANY OTHER PROPOSALS.

I AM HAPPY TO SAY IT WAS ISSUED AFTER BROAD CONSULTATION WITHIN THE LAW ENFORCEMENT COMMUNITY AND AMONG VICTIMS GROUPS.

I HOPE THIS REPORT -- AS A PART OF THIS EFFORT WE ARE TRYING TO GET UNDER WAY AT A GRASS-ROOTS LEVEL ACROSS THE COUNTRY TO REFORM STATES JUSTICE SYSTEMS -- WILL HELP BRING ABOUT THE NEEDED CHANGE TO STOP THE REVOLVING DOOR.

BUT BEYOND RESOURCES, BEYOND REFORM, WE ALSO HAVE TO WORK TOGETHER IN LAW ENFORCEMENT TO LEVERAGE OUR RESOURCES BY WORKING TOGETHER, STATE AND LOCAL LAW ENFORCEMENT AGENCIES, AND TO TARGET OUR RESOURCES WHERE THEY WILL HAVE THE MOST GOOD.

THE ADMINISTRATION HAS BEEN VERY AGGRESSIVE IN THIS AREA, LEANING FORWARD IN THE VIOLENT CRIME AREA.

OUR PURPOSE IS NOT TO FEDERALIZE VIOLENT CRIME. WE DON'T WANT TO FEDERALIZE VIOLENT CRIME AND TAKE OVER STATE AND LOCAL JURISDICTION.

WE HAVE A DIFFICULT ENOUGH TIME POLICING OUR OWN JURISDICTION. AND WE CERTAINLY DON'T WANT TO TRY TO CHANGE THE FBI AGENTS AND OTHERS IN THE STREET INTO COPS.

BUT WE CAN'T JUST STAND ON THE SIDELINES THROUGH THIS CRISIS. A LOT OF THE CRIME WE SEE IS BEING CONDUCTED BY CRIMINAL ORGANIZATIONS, DRUG-TRAFFICKING ORGANIZATIONS, AND GANGS WHO VIOLENT THE FEDERAL LAW.

A LOT OF THIS VIOLENCE IS BEING DONE BY CRIMINAL ENTERPRISES IN VIOLATION OF FEDERAL LAW. WE CAN USE OUR TOUGH TOOLS TO HELP OUR STATE AND LOCAL COLLEAGUES. SO WE HAVE TO PUT IN MOTION A NUMBER OF PROGRAMS TO DO THAT.

ONE EXAMPLE IS TRIGGERLOCK. IN TRIGGERLOCK, WE TAKE VIOLENT CHRONIC OFFENDERS WHO HAVE PRIOR RECORDS, AND WHEN WE GET THEM, WE CHARGE THEM WITH A GUN OFFENSE UNDER FEDERAL LAW.

WE PROSECUTE TO THE HILT, AND WE TRY TO GET MANDATORY SENTENCES AGAINST THESE INDIVIDUALS TO KEEP THEM OFF THE STREETS IN THE FEDERAL SYSTEM.

THIS IS SOMETHING WE ARE DOING COOPERATIVELY WITH THE DISTRICT ATTORNEYS. THEY PICK UP SOMEONE WITH A LONG RECORD.

THEY KNOW THEY ARE GOING TO GET 18 MONTHS, TWO YEARS AT BEST IN THEIR OWN SYSTEM. THEY WILL TURN THEM OVER TO US.

IN OUR FIRST YEAR, WE HAD 6,500 OFFENDERS CHARGED. WE HAVE A 96 PERCENT CONVICTION RATE.

THE AVERAGE SENTENCE BEING GIVEN OUT IS SEVEN YEARS, WITHOUT PROBATION, AND THREE TIME LOSERS -- INDIVIDUALS WITH THREE PRIOR CONVICTIONS -- ARE GETTING AN AVERAGE OF 18 YEARS WITHOUT PAROLE.

SINCE APRIL OF '91, WE HAVE DOUBLED FEDERAL FIREARMS PROSECUTIONS.

THEY NOW REPRESENT 10 PERCENT OF THE FEDERAL CASELOAD, AND I EXPECT THAT THIS FOLLOWING YEAR THAT WILL INCREASE EVEN FURTHER.

THE WORD IS STARTING TO GET OUT ON THE STREET IN MANY CITIES AND WE ARE SEEING A LOT OF ANECDOTAL EVIDENCE.

FELONS ARE SAYING, "I AM NOT CARRYING A GUN BECAUSE THE FEDS ARE OUT TO GET US, AND IF YOU ARE BUSTED BY THE FEDS, YOU ARE GOING AWAY FOR A LONG TIME."

NOW, OF COURSE, THERE IS NO REASON WHY THAT HAS TO BE THE FEDERAL GOVERNMENT. STATE LAWS CAN DO THAT, TOO, AND THAT IS PART OF WHAT WE ARE TRYING TO DO. WE ARE TRYING TO GET THE STATES TO CHANGE THEIR LAWS.

ANOTHER AREA IS ANTI-GANG ACTIVITY. WE USE THE FEDERAL ORGANIZED CRIME STATUTES TO GO AFTER GANGS AND TAKE THEM OUT WHOLESALE.

WE HAVE BEEN BASING OUR NEW PROGRAM ON WHAT WE ACCOMPLISHED IN PHILADELPHIA. IN TWO YEARS, WE TOOK OUT 38 GANGS; 600 GANG MEMBERS ARE SERVING TIME RIGHT NOW IN FEDERAL PRISON.

AND THE CRIME RATE AND THE MURDER RATE HAS GONE DOWN IN PHILADELPHIA. THE CHIEF OF POLICE THERE, WILLIE WILLIAMS, AT THE TIME, ATTRIBUTES THAT LARGELY TO THIS FEDERAL-STATE-LOCAL EFFORT TO TARGET GANGS AND USE ORGANIZED CRIME STATUTES TO TAKE THEM OUT.

THAT'S BEEN TAKEN NATIONWIDE AS PART OF THE FBI'S SAFE STREETS PROGRAM.

WE ARE STARTING TO SEE GANGS COME DOWN ACROSS THE COUNTRY -- IN LOS ANGELES, IN DETROIT, IN CHICAGO, RECENTLY IN WASHINGTON.

IF YOU PAY ATTENTION, YOU WILL SEE THIS HAPPENING MORE AND MORE AROUND THE COUNTRY.

ONE FINAL PROGRAM THAT I WANT TO MENTION IS WEED AND SEED. WE ARE INTEGRATING SOCIAL PROGRAMS AND TOUGH LAW ENFORCEMENT IN THE WEED AND SEED APPROACH.

WE ARE SAYING: LET'S TARGET NEIGHBORHOODS. LET'S GET THE NEIGHBORHOODS THEMSELVES INVOLVED IN SOLVING THE PROBLEM.

GET COMMUNITY POLICING BROUGHT INTO THOSE NEIGHBORHOODS. COORDINATE THE SOCIAL SPENDING SO IT IS MUTUALLY REINFORCING, BUT JUST DON'T THROW MONEY AT THE PROBLEM.

MAKE SURE LAW ENFORCEMENT IS THERE TO CLEAN OUT THOSE NEIGHBORHOODS AND KEEP THEM SAFE.

WE HAVE 20 MODEL PROGRAMS GOING THROUGHOUT THE COUNTRY. THE PRESIDENT HAS SOUGHT MORE RESOURCES FOR IT IN ORDER TO EXPAND IT NATIONWIDE.

AND THERE IS A LOT OF SUPPORT FOR THIS PROGRAM BY MAYORS, LAW ENFORCEMENT OFFICIALS THROUGHOUT THE COUNTRY.

SO MY MESSAGE TODAY IS THAT IF WE TARGET THE CHRONIC VIOLENT OFFENDER, IF WE GET THE RESOURCES WE NEED TO DO THE JOB AND PUSH THE STATES TO PUT IN SUFFICIENT RESOURCES, IF WE REFORM THE CRIMINAL JUSTICE SYSTEM, IF WE WORK COOPERATIVELY WITH HIGH-IMPACT OPERATIONS, TARGETED AT THE MOST VIOLENT AND MOST CHRONIC OFFENDER, AND WE START TO INTEGRATE SOME OF OUR SOCIAL SPENDING IN A TARGETED WAY WITH STRONG LAW ENFORCEMENT, WE CAN HAVE AN IMPACT ON VIOLENT CRIME AND WE ULTIMATELY CAN REDUCE THE LEVEL OF VIOLENT CRIME.

THESE PROBLEMS DID NOT GROW UP OVERNIGHT. THEY TOOK DECADES TO GROW UP.

THEY WILL TAKE A LONG TIME TO SOLVE. BUT THIS IS THE AGENDA, AND THE ONLY AGENDA, REALLY, THAT HAS ANY PROSPECT OF BRINGING DOWN THE LEVEL OF VIOLENCE IN THE NEAR TERM.

THANK YOU VERY MUCH. GOD BLESS YOU.

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REMARKS BY

WILLIAM P. BARR

ATTORNEY GENERAL OF THE UNITED STATES

TO THE

SOCIETY OF FORMER FBI AGENTS

SAN DIEGO, CALIFORNIA

SEPTEMBER 11, 1992

THANK YOU VERY MUCH. THANKS, JERRY, FOR THAT KIND INTRODUCTION. I KNOW I'M AMONG FRIENDS WHEN I HEAR THE PIPES. AS FOR ATTORNEY GENERAL NEXT YEAR AT THIS TIME, PLEASE -- PLEASE INVITE ME BACK. I'LL BE GLAD TO PLAY MY BAGPIPES.

JERRY, DIRECTOR SESSIONS, AND OFFICIALS AND MEMBERS OF THE SOCIETY, I'M GLAD TO BE ABLE TO JOIN YOU HERE TODAY. I WANTED TO COME TO EXPRESS MY TREMENDOUS REGARD FOR THE FBI AND MY ADMIRATION AND RESPECT FOR THOSE WHO HAVE DEDICATED THEIR PROFESSIONAL LIVES TO BUILDING THAT GREAT INSTITUTION, THE BUREAU.

I HAVE HAD THE CHANCE TO WORK CLOSELY WITH THE BUREAU AS ASSISTANT ATTORNEY GENERAL, AS DEPUTY ATTORNEY GENERAL, AND NOW FOR THE PAST YEAR AS ATTORNEY GENERAL. AND I CAN TRULY SAY THAT THE FBI IS THE FINEST OVERALL PROFESSIONAL ORGANIZATION THAT I'VE EVER BEEN EXPOSED TO.

I VIEW THE FBI AS THE PREEMINENT LAW ENFORCEMENT AGENCY IN THE WORLD, AND THAT STATUS HAS BEEN EARNED BY THE BUREAU BY ITS PAST PERFORMANCE, THANKS TO YOU. BUT IT'S ALSO A STATUS THAT'S BEING EARNED TODAY, THANKS TOP THE MANY MEN AND WOMEN THAT MAKE UP THE BUREAU THAT ARE DOING A SUPERB JOB.

AS YOU KNOW, WE FACE MANY CHALLENGES IN LAW ENFORCEMENT TODAY, AND IN EVERY AREA THE FBI PERFORMANCE IS EXCEPTIONAL.

I'VE SEEN FIRSTHAND THE BUREAU'S UNMATCHED INVESTIGATIVE PROWESS IN COMPLEX INVESTIGATIONS RECENTLY, SUCH AS THE JUDGE VANCE BOMBING CASE, THE PAN AM 103 CASE -- WHICH I THINK HAS TO GO DOWN IN HISTORY AS ONE OF THE MOST SWEEPING INVESTIGATIONS EVER. AND THE BUREAU'S DOING AN OUTSTANDING JOB TODAY IN THE WHITE-COLLAR AREA.

THE BUREAU'S RAPID RESPONSE TO THE S&L CRISIS, THE FINANCIAL INSTITUTION FRAUD CRISIS, REALLY WAS A MONUMENTAL ACHIEVEMENT. AS YOU KNOW, EARLY IN 1990 WE WERE INUNDATED WITH TENS OF THOUSANDS OF CRIMINAL REFERRALS ALL AT ONCE. THERE WAS A LOT OF POLITICALLY INSPIRED CARPING ABOUT HOW THE JUSTICE DEPARTMENT WAS NOT INVESTIGATING AND PROSECUTING FINANCIAL INSTITUTION FRAUD IN THE PAST, EVEN THOUGH ALL THESE REFERRALS HAD JUST COME IN.

WELL, WE DON'T HEAR MUCH OF THAT CARPING ANYMORE, AND RIGHTLY SO, BECAUSE IN TWO YEARS ABOUT 900 FBI AGENTS, SUPPLEMENTED WITH AGENTS FROM OTHER INVESTIGATIVE AGENCIES, HAVE AMASSED REALLY A TREMENDOUS RECORD: 3,270 DEFENDANTS CHARGED IN MAJOR FINANCIAL INSTITUTION FRAUD CASES, A 96% CONVICTION RATE.

ALSO, IN THE WHITE-COLLAR AREA, THE BUREAU IS MOVING AGGRESSIVELY IN ANOTHER CRITICAL AREA, AND THAT'S HEALTH CARE

FRAUD. HERE IN THE UNITED STATES WE SPEND OVER \$700 BILLION A YEAR ON HEALTH CARE SERVICES, AND IT'S VARIOUSLY ESTIMATED THAT BETWEEN \$50 AND \$70 BILLION OF FRAUD IS INVOLVED IN THAT SECTOR. THIS IS A TOP ENFORCEMENT PRIORITY OF THE DEPARTMENT, AND THE BUREAU HAS SET UP SPECIAL INVESTIGATIVE UNITS AROUND THE COUNTRY.

JUST A COUPLE OF MONTHS AGO, WE SAW THE RESULTS OF A MAJOR UNDERCOVER INVESTIGATION OF PRESCRIPTION DRUG FRAUD, OPERATION GOLD PILL, OVER A HUNDRED ARRESTS IN 50 CITIES -- THE LARGEST CRIMINAL INVESTIGATION IN THE HEALTH CARE FRAUD AREA EVER DONE.

AND, OF COURSE, THE BUREAU CONTINUES TO PRESS ON WITH THE FIGHT AGAINST ORGANIZED CRIME. YOU ARE AWARE OF SUCH RECENT SUCCESSES AS THE GOTTI CASE, THE PATRIARCA CASE. AND WHILE KEEPING THE PRESSURE UP ON LA COSA NOSTRA, THE BUREAU IS EXPANDING ITS EFFORTS BY TARGETING ASIAN ORGANIZED CRIME GROUPS AND NEW ITALIAN-BASED CRIME SYNDICATES -- NOT NEW, BUT THE THREAT TO THE UNITED STATES IS EMERGING. SO THE WAR AGAINST ORGANIZED CRIME IS FAR FROM OVER. IN FACT, IT'S BECOMING PERHAPS MORE DEADLY AND MORE COMPLEX WITH ASIAN GANGS SUCH AS THE TRIADS AS WELL AS THE SICILIAN MAFIA AND OTHER ITALIAN GROUPS.

AS TO THE FCI (FOREIGN COUNTER-INTELLIGENCE) AREA, THE BUREAU IS READILY ADAPTING TO CHANGING CIRCUMSTANCE. IT IS SUCCESSFULLY EXPLOITING NEW OPPORTUNITIES THAT HAVE EMERGED JUST IN THE PAST YEAR, AND AT THE SAME TIME IT HAS ADJUSTED ITS

PROGRAM TO MEET A THREAT THAT IN MANY WAYS IS BECOMING MORE COMPLEX THAN EVER.

THE FBI CONTINUES TO LEAD THE WAY TO DEVELOPING LAW ENFORCEMENT TECHNOLOGY WHICH IS SO CRITICAL TO OUR FUTURE. JUST ONE EXAMPLE IS THE BUREAU LEADERSHIP IN THE FOREFRONT TO DEVELOPING DNA TECHNOLOGY, WHICH WILL HAVE A REVOLUTIONARY IMPACT ON LAW ENFORCEMENT.

I'VE SEEN AT CLOSE HAND AND RELIED HEAVILY UPON, AS JERRY SAID, THE OPERATIONAL COMPETENCE OF THE FBI. AS DEPUTY ATTORNEY GENERAL, I SAW THE GREAT JOB DONE BY THE BUREAU GUARDING THIS NATION AGAINST TERRORIST ATTACK DURING DESERT STORM -- AN EFFORT THAT HASN'T GOTTEN THAT MUCH ATTENTION BECAUSE, OBVIOUSLY, IT'S DONE IN THE SHADOWS. BY THE RESULTS ARE THERE TO SHOW.

THEN, AS JERRY SAID, RIGHT AFTER I BECAME ACTING ATTORNEY GENERAL, WE HAD THE SITUATION AT TALLADEGA. IT WAS THE BUREAU'S COOL PROFESSIONALISM AND SKILL THAT GOT ME THROUGH THAT CRISIS.

SO, IN SHORT, I'VE SEEN WHAT THE FBI CAN DO, AND I'VE LEARNED THAT IF YOU WANT A JOB DONE RIGHT, HAVE THE FBI DO IT.

NOW, AS ATTORNEY GENERAL, I'VE TRIED AND I'LL CONTINUE TO TRY TO DO EVERYTHING I CAN TO SUPPORT AND TO BUILD UP THE FBI AS

AN INSTITUTION. I'LL DO ALL I CAN TO ENSURE THAT IT REMAINS THE
PREEMINENT LAW ENFORCEMENT AGENCY IN THE WORLD.

I CERTAINLY OWE THAT TO THE MEN AND WOMEN HERE TODAY WHO
HAVE GIVEN SO MUCH TO MAKE THE BUREAU WHAT IT IS TODAY, AND I
SALUTE YOU FOR THAT.

NOW, AS I SAID, LAW ENFORCEMENT FACES MANY CHALLENGES TODAY,
AND I WANT TO SPEND SOME TIME WITH YOU THIS MORNING TALKING ABOUT
ONE OF THOSE CHALLENGES, ONE THAT CONCERNS ME GREATLY, AND THAT'S
THE PROBLEM OF VIOLENT CRIME. THIS IS AN AREA WHICH, AS JERRY
SAID, I'VE GIVEN A LOT OF EMPHASIS TO AS ATTORNEY GENERAL.

AS YOU KNOW, THE FEDERAL ROLE IN THIS AREA IS NECESSARILY
LIMITED. 95% OF VIOLENT CRIME IS COMMITTED WITHIN THE
JURISDICTION OF STATE AND LOCAL LAW ENFORCEMENT AND IT SHOULD
REMAIN THERE. BUT, NEVERTHELESS, I THINK THERE ARE WAYS THAT THE
FEDERAL GOVERNMENT CAN ASSIST OUR STATE AND LOCAL COLLEAGUES AND
CAN HAVE AN IMPACT ON THE VIOLENT CRIME LEVELS IN OUR SOCIETY.
AND I'D LIKE TO SHARE MY THOUGHTS WITH YOU ABOUT THE NATURE OF
THE VIOLENT CRIME PROBLEM THAT WE FACE AND WHAT WE ARE DOING
ABOUT IT.

I DON'T HAVE TO TELL YOU HOW SERIOUS THE PROBLEM IS THESE
DAYS. VIOLENCE IS AT INTOLERABLY HIGH LEVELS. WE SEE MURDER AND
RAPE ON THE INCREASE, GANG VIOLENCE SPREADING, MORE AND MORE

CRIME COMMITTED BY JUVENILES. CRIME SEEMS TO BE MORE VICIOUS AND COLD-BLOODED AND WANTON THAN EVER.

WHEN YOU STEP BACK, I DON'T THINK THERE'S ANY DEVELOPMENT OVER THE LAST FEW DECADES THAT IS MORE PROFOUND OR MORE APPALLING IN OUR SOCIETY THAN THIS SUSTAINED EPIDEMIC OF VIOLENCE. AND THINGS WEREN'T ALWAYS THIS WAY.

PRIOR TO 1960, THERE WERE FLUCTUATIONS IN VIOLENT CRIME, BUT GENERALLY IT STAYED WITHIN -- REASONABLE LEVELS, PUT IT THAT WAY. BUT STARTING IN 1960 AND OVER THE NEXT 30 YEARS, VIOLENT CRIME LEVELS IN OUR COUNTRY QUINTUPLED, INCREASED FIVE-FOLD. AND MOST OF THAT INCREASE OCCURRED DURING THE '60s AND '70s. UNDER THE FBI'S UNIFORMED CRIME REPORT, THERE WERE 150 VIOLENT CRIMES PER 100,000 PERSONS IN 1960; THAT JUMPED TO 600 IN 1980; AND THEN FROM 1980 TO THE PRESENT HAVE GONE UP ANOTHER 150, TO ABOUT 750. SO THAT'S A 400% INCREASE IN TWO DECADES UP TO 1980, AND A 25% INCREASE SINCE 1980 -- OF COURSE, ON A BIGGER BASE.

BUT THAT IS ENORMOUS, AND IT IS BY FAR THE HIGHEST CRIME RATE AMONG COUNTRIES IN THE WORLD THAT MAINTAIN RELIABLE RECORDS. AND IT IS APPALLING THAT OUR GREAT REPUBLIC SHOULD HOLD THAT RECORD. SO WHILE WE'VE MADE SOME PROGRESS OVER THE PAST 10 OR 12 YEARS, THE FACT IS THAT CRIME IS TOO HIGH TODAY -- AND IT'S STILL MOVING UP.

NOW, I'M NOT REALLY TALKING ABOUT STATISTICS. I'M TALKING ABOUT PEOPLE. JUST TWO DAYS AGO IN WASHINGTON A WOMAN WAS TAKING HER 2-YEAR-OLD TO PRESCHOOL BEFORE GOING TO WORK -- THIS IS IN A WASHINGTON SUBURB, NOT A HIGH-CRIME AREA, A SUBURBAN COMMUNITY OF WASHINGTON. AND AS SHE STOPPED AT A STOP SIGN, SHE WAS PULLED OUT OF HER CAR BY TWO MALES, WHO DROVE OFF WITH THE KID IN THE CAR, DRAGGING HER ALONG ON THE SIDE OF THE VEHICLE. IT WAS UNCLEAR WHETHER SHE WAS CAUGHT IN THE DOOR OR WAS CLINGING ON TO THE CAR BECAUSE HER CHILD WAS STILL IN THE CAR.

IN ANY EVENT, THE ASSAILANT BACKED THE CAR UP AGAINST OBSTACLES TO TRY AND SWEEP HER OFF. AFTER A MILE-AND-A-HALF, SHE FELL OFF, DEAD FROM MASSIVE INTERNAL INJURIES. AND THEN THEY THREW THE 2-YEAR-OLD OUT OF THE CAR. THE CHILD SURVIVED.

THESE KINDS OF BRUTAL CRIMES ARE BECOMING ALL TOO FREQUENT, ALL TOO COMMON IN OUR SOCIETY. BUT WE CAN'T ALLOW OURSELVES TO BE INURED TO IT. WE HAVE TO DO SOMETHING ABOUT THIS.

WELL, WHAT CAN WE DO ABOUT THE EPIDEMIC OF VIOLENCE? CAN WE ACTUALLY REDUCE THE LEVEL OF VIOLENCE IN OUR SOCIETY? ARE WE DOOMED AS A SOCIETY TO SIT BACK AND WATCH THIS EVER INCREASING LEVEL OF VIOLENCE?

THERE ARE BASICALLY TWO APPROACHES THAT ARE OFFERED TODAY IN PUBLIC DISCOURSE ON THIS SUBJECT. YOU HAVE THE ONE APPROACH THAT

SAYS CRIME IS CAUSED BY CRIMINALS, AND YOU DEAL WITH CRIME BY GETTING TOUGHER WITH CRIMINALS. YOU DETER CRIME, YOU PUNISH CRIME, YOU INCAPACITATE THE CRIMINAL.

THEN THERE'S THE OTHER APPROACH -- AND YOU KNOW, YOU'VE HEARD THIS -- WHICH IS CRIME ULTIMATELY IS CAUSED BY SOCIETAL ILLS, AND THE WAY TO DEAL WITH CRIME IS TO ATTACK THE ROOT CAUSES OF CRIME THROUGH SOCIAL PROGRAMS.

NOW, THE FACT IS THAT ULTIMATELY WE NEED A MIXTURE OF BOTH. WE DO NEED BOTH APPROACHES TO SOME EXTENT, AND IT'S A QUESTION OF BALANCE. WE NEED AGGRESSIVE STEPS TO DEAL WITH THE CRIMINAL OF TODAY WHO'S WREAKING HAVOC ON THE STREETS TODAY. IT'S NICE TO PLAN FOR AND DREAM ABOUT A BETTER TOMORROW. BUT THE CITIZENS OF TODAY DESERVE PROTECTION TODAY. AND AT THE SAME TIME, UNQUESTIONABLY, WE HAVE TO DO ALL THAT WE CAN, TO THE EXTENT WE CAN, TO PREVENT THE YOUTH OF TODAY FROM BECOMING THE HARDENED CRIMINAL OF TOMORROW.

BUT I'M AFRAID THAT TOO MANY OF THESE "ROOT-CAUSE-SCHOOL" PEOPLE FAIL TO APPRECIATE THE IMPORTANCE OF STRONG AND SUPPRESSIVE LAW ENFORCEMENT AND THAT RELIANCE ON POLICE, PROSECUTORS, AND PRISONS IS SOMEHOW UNENLIGHTENED AND OVERLY PUNITIVE. THEY PRESENT SOCIAL PROGRAMS AS AN ALTERNATIVE TO THEM, AS A SUBSTITUTE FOR STRONG LAW ENFORCEMENT. I HEAR IT ALL THE TIME: "WE SHOULDN'T BE SPENDING MORE MONEY ON PRISONS AND POLICE AND PROSECUTORS AND FBI AGENTS AND SO FORTH; WE SHOULD BE

SPENDING MONEY ON MORE SCHOOLS, MORE PUBLIC HOUSING, MORE ANTI-POVERTY PROGRAMS."

THIS IS THE TRENDY POSITION TO HAVE NOWADAYS. THE NEW REVISIONIST HISTORY IS THAT LAW ENFORCEMENT REALLY HASN'T HAD ANY IMPACT, SO LET'S SWITCH TO SOCIAL PROGRAMS INSTEAD.

I THINK THAT THOSE THAT GIVE SHORT SHRIFT TO LAW ENFORCEMENT ARE MISSING A BASIC POINT: THAT IN THIS PERVASIVE ATMOSPHERE IN FEAR OF VIOLENCE, NONE OF THESE SOCIAL PROGRAMS CAN TAKE HOLD AND BE SUCCESSFUL.

OUR EFFORTS -- AND I THINK AS WE LOOK OVER THE PAST 30 YEARS, WE WILL RECOGNIZE THIS -- OUR EFFORTS AT SOCIAL REHABILITATION ARE BEING STRANGLERED BY CRIME TODAY. THE FACT IS WE'VE BEEN DOING THE "ROOT-CAUSES" STRATEGY FOR THE LAST 25 YEARS. WHAT IS THE GREAT SOCIETY ALL ABOUT? THAT IS THE "ROOT-CAUSES" STRATEGY, AND WE HAVE BEEN POURING HUNDREDS OF BILLIONS OF DOLLARS -- TRILLIONS OF DOLLARS -- INTO THIS.

SPENDING NOW STANDS AT RECORD LEVELS ON ANTI-POVERTY MEANS-TESTED PROGRAMS. JUST ON ANTI-POVERTY PROGRAMS, IT'S \$290 BILLION A YEAR. AND IT'S HAD REAL INCREASES EVERY SINGLE YEAR SINCE 1965. THAT'S \$3,111 FOR EACH TAXPAYER TODAY. AND THAT'S HOW MUCH THEY'RE PUTTING JUST INTO ANTI-POVERTY PROGRAMS. WHEN YOU INCLUDE NON-MEANS-TESTED PROGRAMS, LIKE EDUCATION AND HEALTH

CARE, WE'RE SPENDING PER TAXPAYER MANY THOUSANDS OF DOLLARS ON ATTACKING THE "ROOT CAUSES."

IT'S BECOMING INCREASINGLY CLEAR, HOWEVER, THAT THESE EFFORTS ARE BEING DEFEATED AND THAT THE ABSOLUTE PREREQUISITE FOR THEIR SUCCESS IS STRONG LAW ENFORCEMENT. WHAT GOOD IS IT TO BUILD A HOUSING PROJECT AND HAVE IT TURN INTO STASH HOUSE? WHAT GOOD IS IT TO BUILD A MODEL SCHOOL AND INVEST ALL THAT MONEY IN EDUCATION, WHICH WE'RE DOING, TO SEE THE SCHOOLS BE TAKEN OVER BY GANGS?

IT'S CLEAR THAT OUR SOCIAL PROGRAMS TO ATTACK "ROOT CAUSES" ARE NOT GOING TO WORK UNLESS THEY'RE SUPPORTED BY AND BUILT UPON A STRONG FOUNDATION OF TOUGH LAW ENFORCEMENT.

NOW, HOW TO WE GO ABOUT REDUCING CRIME? WHAT IS THE PROGRAM FOR TOUGH LAW ENFORCEMENT AGAINST VIOLENT CRIME?

FROM A LAW ENFORCEMENT STANDPOINT, THE EVIDENCE IS CLEAR THAT THE PROBLEM OF VIOLENT CRIME TODAY IS LARGELY THE PROBLEM OF THE CHRONIC VIOLENT OFFENDER. THAT'S THE KIND OF VIOLENT CRIME SOCIETY CAN DO SOMETHING ABOUT. IT'S THE CONTROLLABLE AND PREVENTABLE PART OF VIOLENT CRIME.

AS YOU KNOW, A LOT OF VIOLENCE IS UNPREDICTABLE, DONE BY PEOPLE WHO YOU'D NEVER EXPECT TO DO IT. SOME MAN JUST EXPLODES

SOME DAY AND KILLS HIS WIFE IN THE HEAT OF PASSION IN A DOMESTIC DISPUTE. THAT'S VERY DIFFICULT TO INTERCEPT BEFORE IT HAPPENS. BUT MOST OF THE VIOLENT CRIME -- CERTAINLY THE VIOLENT CRIME THAT PEOPLE ARE MOST WORRIED ABOUT TODAY -- IS PREDATORY, AN ACT OF VIOLENT CRIME THAT'S COMMITTED BY THESE CHRONIC OFFENDERS.

THERE ARE NUMEROUS STUDIES THAT SHOW THAT A TINY FRACTION OF THE POPULATION IS RESPONSIBLE FOR THE VAST MAJORITY OF THIS PREDATORY VIOLENCE. THERE'S THE FAMOUS CALIFORNIA STUDY OF A LARGE GROUP OF MALES IN CALIFORNIA THAT FOUND THAT JUST ABOUT FOUR PERCENT OF THE GROUP COMMITTED ABOUT 60 PERCENT OF THE CRIME. AND THAT'S BEEN BORNE OUT IN STUDY AFTER STUDY.

ANOTHER FAMOUS STUDY FOLLOWED 240 CRIMINALS FOR A PERIOD OF 11 YEARS AND FOUND THAT BETWEEN THEM, THEY COMMITTED A MILLION CRIMES. THAT'S AN AVERAGE OF 190 CRIMES A YEAR.

YOU KNOW THE PROFILE OF THE PEOPLE I'M TALKING ABOUT. THESE ARE PEOPLE WHO START COMMITTING CRIMES AS JUVENILES. THEY GO RIGHT ON COMMITTING CRIMES AS ADULTS. RECIDIVISM IS A VIRTUAL CERTAINTY. WHENEVER THEY ARE PUT OUT OF CUSTODY, WHETHER IT BE ON BAIL OR PROBATION OR PAROLE, THEY ARE VIRTUALLY CERTAIN TO COMMIT MORE CRIMES. AND YOU SEE THAT IN THE NEWSPAPER EVERY DAY.

THESE ARE NOT NOVICES OUT THERE COMMITTING THESE CRIMES, AND WE KNOW THAT. THESE ARE PEOPLE WHO HAVE CRIMINAL RECORDS, AND INCREASINGLY, THEY'RE PEOPLE WHO ARE ALREADY UNDER JUDICIAL SUPERVISION, ON BAIL OR PROBATION. LET'S LOOK AT THAT MARYLAND CASE I DESCRIBED TO YOU, THAT CARJACKING CASE.

THE POLICE HAVE ARRESTED TWO SUSPECTS IN THAT CASE. ONE OF THEM IS A 26 YEAR-OLD, IN 1983 ARRESTED FOR ROBBERY, PLED TO A LESSER CHARGE, PUT ON PROBATION; IN 1984 ARRESTED FOR ROBBERY, PROBATION REVOKED, SERVED A BRIEF TIME. 1991, ASSAULT WITH INTENT TO KILL, SHOT A PERSON IN THE FACE; THAT CHARGE WAS ULTIMATELY DISMISSED. FIVE MONTHS LATER, ARRESTED FOR DISTRIBUTION OF HEROIN AND COCAINE. HE WAS RELEASED UNDER A PROGRAM CALLED "OPERATION PROGRESS."

[LAUGHTER]

OPERATION PROGRESS WAS COMMUNITY-BASED CLOSE SUPERVISION IN YOUR HOME WITH TWO URINALYSES A WEEK. WHILE ON OPERATION PROGRESS, HE AS ARRESTED AGAIN FOR PRECISELY THE SAME OFFENSE, DISTRIBUTION OF HEROIN AND COCAINE. AND WHAT HAPPENED? THE JUDGE LET HIM OUT ON BAIL. BAIL WAS SET AT \$5,000. HE COULDN'T PAY, SO HE WAS RELEASED WITHOUT PAYING A DIME. THE JUDGE CLAIMED HE HAD NO CHOICE UNDER THE NEW BAIL REFORM LAW IN THE DISTRICT OF COLUMBIA.

SO MUCH FOR OPERATION PROGRESS. THERE WAS NOT MUCH PROGRESS FOR MRS. BASU, WHO WAS THE WOMAN KILLED IN THE CARJACKING.

THESE STORIES ARE REPEATED DAY AFTER DAY IN EVERY MAJOR CITY ACROSS THE COUNTRY. AND WITH THIS TYPE OF HABITUAL OFFENDER I'M TALKING ABOUT, ONE THING IS CLEAR: THE ONLY TIME THEY'RE NOT COMMITTING CRIMES IS WHEN THEY'RE LOCKED UP IN PRISON. IN COMBATING VIOLENT CRIME, OUR PRIMARY OBJECTIVE IN SOCIETY HAS TO BE TO MAKE SURE OUR CRIMINAL JUSTICE SYSTEM TARGETS AND INCAPACITATES THIS HARD-CORE GROUP OF OFFENDERS, MAKING THEM SERVE LONG SENTENCES -- A PERIOD OF TIME DICTATED BY THE PUBLIC SAFETY AND NOT PRISON CAPACITY OR OTHER ARTIFICIAL FACTORS.

IT IS MY VIEW THAT IN OUR LIFETIME, OR IN OUR CHILDREN'S LIFETIMES, THAT'S THE ONLY POLICY THAT WILL ACTUALLY HAVE ANY PROSPECT OF REDUCING VIOLENT CRIME.

[APPLAUSE]

THERE'S A LOT OF REVISIONIST HISTORY BEING WRITTEN. PEOPLE SAY, "WELL, YOU TRY TO BE TOUGH ON CRIME, AND WE STILL HAVE CRIME GOING UP." THE ISSUE, OF COURSE, ISN'T WHETHER CRIME IS STILL GOING UP. THE ISSUE IS WHERE WOULD IT BE WITHOUT THOSE TOUGH MEASURES THAT WE'VE ADOPTED SINCE 1980?

HISTORY SHOWS THAT TOUGH INCARCERATION POLICIES WORK. PUTTING VIOLENT OFFENDERS BEHIND BARS WORKS. IN THE 1960S AND '70S, INCARCERATION RATES DROPPED SUBSTANTIALLY. THEY DROPPED BY 20 PERCENT DURING THOSE TWO DECADES. WE STOPPED PUTTING PEOPLE IN PRISON, AND THOSE THAT WE DID PUT IN PRISON, WE PUT IN FOR SHORTER SENTENCES. THE RESULT? VIOLENT CRIME, AS I TOLD YOU, WENT UP 400 PERCENT IN THE TWO DECADES.

IT WAS IN 1980 THAT WE STARTED GETTING TOUGH. WE REFORMED THE FEDERAL SYSTEM. MANY STATES REFORMED THEIR SYSTEMS. WE STARTED BUILDING PRISONS. WE PUT A HIGHER PERCENTAGE OF PEOPLE IN PRISON, AND PRISON TERMS GOT LONGER. AND, NATIONALLY, WHAT HAPPENED? THE SPIRALING CRIME RATES OF THE '60S AND '70S ABRUPTLY STOPPED, LEVELED OFF, AND ACTUALLY DECLINED FOR SEVERAL YEARS.

NOW, UNFORTUNATELY, WHEN WE LOOK ACROSS THE NATION TODAY -- WHILE WE'VE ACCOMPLISHED A LOT, WHILE THINGS COULD BE WORSE BUT FOR WHAT WE DID IN THE 1980S -- WE STILL ARE NOT DOING A GOOD ENOUGH JOB ON THESE CHRONIC OFFENDERS. WE'RE GOING BACK TO A REVOLVING DOOR SYSTEM OF JUSTICE -- NOT ON THE FEDERAL LEVEL, BUT IN MANY STATES.

THERE ARE THREE BASIC REASONS WE'RE SEEING THIS SURGE IN VIOLENT CRIME. FIRST, THE CRACK EPIDEMIC. THIS CORRELATES TO 1986, WHEN CRIME RATES STARTED GOING BACK UP AGAIN. CRACK

UNDOUBTEDLY HAD A LOT TO DO WITH IT. SECOND, THE BREAKDOWN OF THE FAMILY, THE SOARING ILLEGITIMACY RATES WE'RE SEEING. ILLEGITIMACY HAS TRIPLED SINCE 1965 ACROSS SOCIETY. IN MANY INNER CITIES IT'S NOW 70 TO 80 PERCENT ILLEGITIMACY RATES; KIDS ARE BEING RAISED WITHOUT ANY MORAL GUIDANCE. IT STARTED IN THE LATE '60S, EARLY '70S, AND NOW THE CHICKENS ARE COMING HOME TO ROOST. THIS IS WHY WE SEE INCREASED JUVENILIZATION OF CRIME.

THE THIRD REASON IS THE RELAPSING OF STATES INTO A REVOLVING DOOR SYSTEM OF JUSTICE. WE HAVE THE MOST IMMEDIATE, DIRECT CONTROL OVER THIS FACTOR. ACROSS THE NATION RIGHT NOW, THERE ARE HUNDREDS OF THOUSANDS OF INDIVIDUALS THAT WERE SIPHONED THROUGH THE SYSTEM BECAUSE OF LACK OF PRISON CAPACITY, AND PUT BACK OUT ON THE STREETS TO MAKE ROOM FOR THE NEXT WAVE.

BY AND LARGE, THE POLICE AND PROSECUTORS ARE DOING A GREAT JOB ACROSS THE COUNTRY APPREHENDING AND PROSECUTING VIOLENT OFFENDERS. BUT THEN THEY ARE BEING LET DOWN BY THE REST OF THE SYSTEM -- THEIR EFFORTS ARE BEING NULLIFIED BECAUSE INDIVIDUALS ARE PREMATURELY RELEASED, LARGELY BECAUSE STATES WILL NOT INVEST IN SUFFICIENT PRISON CAPACITY OR JAIL CAPACITY TO HOLD THEM.

RIGHT NOW, THE AVERAGE SENTENCE SERVED IS 37 PERCENT OF THE SENTENCE GIVEN, AND IT'S DROPPING. WE SEE FIVE OUT OF EIGHT FELONS WHO ARE RELEASED REARRESTED FOR A SERIOUS CRIME WITHIN THREE YEARS. WE SEE CRIMES LIKE RAPE WHERE THE AVERAGE SENTENCE

IS EIGHT YEARS, BUT THE AVERAGE TIME SERVED IS THREE YEARS. THREE YEARS IS THE PRICE OF RAPE IN THE UNITED STATES. WHAT DOES THAT SAY OF OUR VALUES HERE?

THIRTY PERCENT OF ALL MURDERS IN THIS COUNTRY, 6,500 OF OUR FELLOW CITIZENS, ARE SLAUGHTERED EVERY YEAR BY PEOPLE WHO ARE ON BAIL, PROBATION, OR PAROLE AT THE TIME OF THE MURDER.

NOW, IF WE'RE GOING TO REDUCE VIOLENT CRIME, WE'RE GOING TO HAVE TO STOP THIS REVOLVING DOOR. IT'S GOING TO TAKE A GREAT DEAL OF COMMITMENT, PARTICULARLY AT THE STATE LEVEL. SPECIFICALLY, IT'S GOING TO REQUIRE RESOURCES, REFORM, AND AN UNPRECEDENTED LEVEL OF COOPERATION AMONG LAW ENFORCEMENT AGENCIES TO TARGET OUR RESOURCES WHERE THEY WILL DO THE MOST GOOD.

IN FACT, ON THE FEDERAL LEVEL WE'VE BEEN FORTUNATE. THE PRESIDENT HAS MADE LAW ENFORCEMENT A PRIORITY. THE DEPARTMENT OF JUSTICE'S BUDGET HAS INCREASED 70 PERCENT DURING THE PAST FOUR YEARS. WE HAVE DOUBLED OUR PRISON CAPACITY IN THE PAST THREE YEARS.

THIS COMMITMENT HAS TO BE MATCHED AT THE STATE LEVEL. NOW IS NOT THE TIME TO SKIMP. THERE ARE TIGHT BUDGETS IN THE STATES. A LOT OF GOVERNORS ARE CUTTING THE STATE BUDGETS. BUT LAW ENFORCEMENT SHOULD COME FIRST, BECAUSE IT IS THE FIRST DUTY OF GOVERNMENT.

REFORM IS NECESSARY. YOU CAN PUT ALL THE RESOURCES TO BEAR YOU WANT, PUT ALL THE POLICE ON THE STREET THAT YOU WANT -- BUT IF THE CRIMINAL JUSTICE SYSTEM IS A SIEVE, THEN IT'S WORTHLESS. WE STILL HAVE TO REFORM OUR CRIMINAL JUSTICE SYSTEM IN THIS COUNTRY.

NOW, YOU KNOW THAT IN THE 1980S WE MADE GREAT STRIDES AT THE FEDERAL LEVEL. WE GOT STRONG PRE-TRIAL DETENTION, WE ABOLISHED PAROLE, WE GOT STIFF MANDATORY MINIMUM SENTENCES. NOW THE FEDERAL GOVERNMENT HAS THE TOUGHEST CRIMINAL JUSTICE SYSTEM IN THIS COUNTRY, AND THERE'S NO QUESTION ABOUT IT.

BUT NO MATTER WHAT WE DO AT THE FEDERAL LEVEL, WE CAN ONLY HAVE A LIMITED IMPACT. REFORM HAS TO BE AT THE STATE LEVEL, WHERE MOST OF THE CRIME IS COMMITTED.

ON JULY 28TH, I ISSUED A VIOLENT CRIME REPORT THAT GAVE CITIZENS A CHECKLIST FOR ASSESSING THEIR STATE CRIMINAL JUSTICE SYSTEM -- HOW TO UNDERSTAND THE CRIMINAL JUSTICE SYSTEM AND TELL WHAT IT'S DOING RIGHT AND WHAT IT'S DOING WRONG. IT CONTAINS 24 SPECIFIC RECOMMENDATIONS FOR STRENGTHENING THE CRIMINAL JUSTICE SYSTEM, INCLUDING PRE-TRIAL DETENTION, ABOLITION OF PAROLE, TRUTH IN SENTENCING, PROTECTION OF VICTIMS, AND MANY OTHER PROPOSALS. I'M HAPPY TO SAY IT WAS ISSUED AFTER BROAD CONSULTATION WITHIN

THE LAW ENFORCEMENT COMMUNITY AND AMONG VICTIMS GROUPS. IT WAS BIPARTISAN. I WAS JOINED, WHEN I RELEASED IT, BY THE PRESIDENT OF THE NATIONAL DISTRICT ATTORNEYS ASSOCIATION, THE PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, THE PRESIDENT OF THE NATIONAL SHERIFFS ASSOCIATION, THE CHAIRMAN OF THE STATE AG'S CRIMINAL JUSTICE COMMITTEE, HEADS OF MAJOR VICTIMS GROUPS, AND JOHN WALSH. YOU KNOW HIM AS THE CREATOR AND HOST OF "AMERICA'S MOST WANTED."

I HOPE THIS REPORT -- AS PART OF THIS EFFORT WE'RE TRYING TO GET UNDER WAY AT A GRASS-ROOTS LEVEL ACROSS THE COUNTRY TO REFORM STATE JUSTICE SYSTEMS -- WILL HELP BRING ABOUT THE NEEDED CHANGE TO STOP THAT REVOLVING DOOR.

BUT BEYOND RESOURCES, BEYOND REFORM, WE ALSO HAVE TO WORK TOGETHER IN LAW ENFORCEMENT TO LEVERAGE OUR RESOURCES BY WORKING TOGETHER WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES, AND TARGET OUR RESOURCES WHERE THEY WILL HAVE THE MOST GOOD.

THE ADMINISTRATION HAS BEEN VERY AGGRESSIVE, LEANING FORWARDING IN THE VIOLENT CRIME AREA. OUR PURPOSE IS NOT TO FEDERALIZE VIOLENT CRIME. WE DON'T WANT TO FEDERALIZE VIOLENT CRIME AND TAKE OVER STATE AND LOCAL JURISDICTION. AND WE CERTAINLY DON'T WANT TO TRY TO CHANGE THE FBI AGENTS AND OTHERS IN THE STREET INTO COPS. BUT WE CAN'T JUST STAND ON THE SIDELINES THROUGH THIS CRISIS. A LOT OF THE CRIME WE SEE IS

BEING CONDUCTED BY CRIMINAL ORGANIZATIONS, DRUG-TRAFFICKING ORGANIZATIONS, AND GANGS WHO VIOLATE THE FEDERAL LAW. A LOT OF THIS VIOLENCE IS BEING DONE BY CRIMINAL ENTERPRISES IN VIOLATION OF FEDERAL LAW. WE CAN USE OUR TOUGH TOOLS TO HELP OUR STATE AND LOCAL COLLEAGUES, AND WE HAVE TO PUT IN MOTION A NUMBER OF PROGRAMS TO DO THAT.

ONE EXAMPLE IS TRIGGERLOCK. IN TRIGGERLOCK, WE TAKE VIOLENT CHRONIC OFFENDERS WHO HAVE PRIOR RECORDS, AND WHEN WE GET THEM, WE CHARGE THEM WITH A GUN OFFENSE UNDER FEDERAL LAW. WE PROSECUTE TO THE HILT, AND WE TRY TO GET MANDATORY SENTENCES AGAINST THESE INDIVIDUALS TO KEEP THEM OFF THE STREETS IN THE FEDERAL SYSTEM. THIS IS SOMETHING WE'RE DOING COOPERATIVELY WITH DAS. THEY PICK UP SOMEONE WITH A LONG RECORD. THEY KNOW THEY'RE GOING TO GET 18 MONTHS, TWO YEARS AT BEST IN THEIR OWN SYSTEM. THEY'LL TURN THEM OVER TO US.

IN OUR FIRST YEAR, WE HAD 6,500 OFFENDERS CHARGED. WE HAVE A 96 PERCENT CONVICTION RATE. THE AVERAGE SENTENCE BEING GIVEN OUT IS SEVEN YEARS, WITHOUT PROBATION, AND THREE-TIME LOSERS -- INDIVIDUALS WITH THREE PRIOR CONVICTIONS -- ARE GETTING AN AVERAGE OF 18 YEARS WITHOUT PAROLE.

[APPLAUSE]

SINCE APRIL OF '91, WE HAVE DOUBLED FEDERAL FIREARMS PROSECUTIONS. THEY NOW REPRESENT TEN PERCENT OF THE FEDERAL CASELOAD, AND I EXPECT THAT THIS FOLLOWING YEAR THAT WILL INCREASE EVEN FURTHER.

THE WORD IS STARTING TO GET OUT ON THE STREET IN MANY CITIES, AND WE'RE SEEING A LOT OF ANECDOTAL EVIDENCE. FELONS ARE SAYING, "I AM NOT CARRYING A GUN BECAUSE THE FEDS ARE OUT TO GET US, AND IF YOU'RE BUSTED BY THE FEDS, YOU ARE GOING AWAY FOR A LONG TIME."

OF COURSE, THERE'S NO REASON WHY THAT HAS TO BE THE FEDERAL GOVERNMENT. STATE LAWS CAN DO THAT, TOO, AND THAT'S PART OF WHAT WE'RE TRYING TO DO. WE'RE TRYING TO GET THE STATES TO CHANGE THEIR LAWS.

ANOTHER AREA IS ANTI-GANG ACTIVITY. WE USE THE FEDERAL ORGANIZED CRIME STATUTES TO GO AFTER GANGS AND TAKE THEM OUT WHOLESALE. WE HAVE BEEN BASING OUR NEW PROGRAM ON WHAT WE ACCOMPLISHED IN PHILADELPHIA. IN TWO YEARS, WE TOOK OUT 38 GANGS; 600 GANG MEMBERS ARE SERVING TIME RIGHT NOW IN FEDERAL PRISON. AND THE CRIME RATE AND THE MURDER RATE HAS GONE DOWN IN PHILADELPHIA. THE CHIEF OF POLICE THERE, WILLIE WILLIAMS AT THE TIME, ATTRIBUTES THAT LARGELY TO THIS FEDERAL-STATE-LOCAL EFFORT TO TARGET GANGS AND USE ORGANIZED CRIME STATUTES TO TAKE THEM OUT.

THAT'S BEEN TAKEN NATIONWIDE AS PART OF THE FBI'S SAFE STREETS PROGRAM. WE'RE STARTING TO SEE GANGS COME DOWN ACROSS THE COUNTRY -- IN LOS ANGELES, IN DETROIT, IN CHICAGO, RECENTLY IN WASHINGTON. IF YOU PAY ATTENTION, YOU'LL SEE THIS HAPPENING MORE AND MORE AROUND THE COUNTRY.

ONE FINAL PROGRAM THAT I WANT TO MENTION IS WEED AND SEED. WE'RE INTEGRATING SOCIAL PROGRAMS AND TOUGH LAW ENFORCEMENT IN THE WEED AND SEED APPROACH. WE'RE SAYING: LET'S TARGET NEIGHBORHOODS. LET'S GET THE NEIGHBORHOODS THEMSELVES INVOLVED IN SOLVING THE PROBLEM. GET COMMUNITY POLICING BROUGHT INTO THOSE NEIGHBORHOODS. COORDINATE THE SOCIAL SPENDING SO IT'S MUTUALLY REINFORCING, BUT JUST DON'T THROW MONEY AT THE PROBLEM. MAKE SURE LAW ENFORCEMENT IS THERE TO CLEAN OUT THOSE NEIGHBORHOODS AND KEEP THEM SAFE.

WE HAVE 20 MODEL PROGRAMS GOING THROUGHOUT THE COUNTRY. THE PRESIDENT HAS SOUGHT MORE RESOURCES FOR IT IN ORDER TO EXPAND IT NATIONWIDE. AND THERE'S A LOT OF SUPPORT FOR THIS PROGRAM BY MAYORS AND LAW ENFORCEMENT OFFICIALS THROUGHOUT THE COUNTRY.

SO MY MESSAGE TODAY IS THAT IF WE TARGET THE CHRONIC VIOLENT OFFENDER, IF WE GET THE RESOURCES WE NEED TO DO THE JOB AND PUSH THE STATES TO PUT IN SUFFICIENT RESOURCES, IF WE REFORM THE CRIMINAL JUSTICE SYSTEM, IF WE WORK COOPERATIVELY WITH HIGH-IMPACT OPERATIONS, TARGETED AT THE MOST VIOLENT AND MOST CHRONIC

OFFENDER, AND WE START TO INTEGRATE SOME OF OUR SOCIAL SPENDING IN A TARGETED WAY WITH STRONG LAW ENFORCEMENT, WE CAN HAVE AN IMPACT ON VIOLENT CRIME AND WE ULTIMATELY CAN REDUCE THE LEVEL OF VIOLENT CRIME.

THESE PROBLEMS DIDN'T GROW UP OVERNIGHT. THEY TOOK DECADES TO GROW UP. THEY WILL TAKE A LONG TIME TO SOLVE. BUT THIS IS THE AGENDA -- AND THE ONLY AGENDA, REALLY -- THAT HAS ANY PROSPECT OF BRINGING DOWN THE LEVEL OF VIOLENCE IN THE NEAR TERM.

THANK YOU VERY MUCH. GOD BLESS YOU.

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Department of Justice

REMARKS BY

WILLIAM P. BARR

ATTORNEY GENERAL OF THE UNITED STATES

TO THE

MICHIGAN CRIME SUMMIT

SEPTEMBER 10, 1992

THANK YOU VERY MUCH. IT'S AN HONOR FOR ME TO HAVE A CHANCE TO PARTICIPATE IN THIS STATEWIDE STRATEGY SESSION ABOUT COMBATTING DRUGS AND VIOLENT CRIME. ABOUT A MONTH AGO I HAD THE PRIVILEGE OF MEETING WITH THE PROSECUTING ATTORNEYS OF MICHIGAN UP IN MACKINACK ISLAND, AND IT'S A REAL PLEASURE TO GET BACK HERE TO THIS BEAUTIFUL STATE. I RECOGNIZE SOME OF THE PROSECUTORS HERE IN THE AUDIENCE -- IT'S GOOD TO SEE YOU AGAIN.

THIS KIND OF MEETING PROVIDES A GOOD FORUM FOR SHARING IDEAS AND FOR BRAINSTORMING OVER NEW APPROACHES TO DEAL WITH DRUG USE AND VIOLENCE IN OUR SOCIETY. AND AS THE TITLE OF THE PROGRAM SUGGESTS, ITS FOCUS IS TO EXPLORE WAYS IN WHICH LAW ENFORCEMENT AND A COMMUNITY CAN JOIN TOGETHER IN A WORKING PARTNERSHIP[P TO DEAL MORE EFFECTIVELY WITH DRUGS AND VIOLENCE. I'D LIKE TO COMMEND GOVERNOR ENGLER NOT ONLY FOR HIS LEADERSHIP IN CONVENING THIS MEETING, BUT ALSO FOR HIS CONTINUING EFFORTS TO TARGET CRIME AND DRUGS AS A PRIORITY.

THE FACT IS THAT THERE IS NO MORE CRITICAL ISSUE FACING OUR SOCIETY THAN VIOLENT CRIME, MOST OF WHICH IS DRUG RELATED, AS YOU KNOW. MURDER AND RAPE ARE ON THE INCREASE. GANG VIOLENCE IS SPREADING. MORE AND MORE OF OUR CRIME IS BEING COMMITTED BY JUVENILES. WE, AS A PEOPLE, TEND TO BECOME PREOCCUPIED WITH THE NEWS OF THE DAY AND THE CURRENT PRESSING PROBLEMS -- WHETHER IT BE A FOREIGN POLICY CRISIS OR AN ADVERSE TURN IN THE BUSINESS CYCLE. BUT I THINK WHEN YOU STEP BACK FROM THE NEWS OF THE DAY

THERE IS NO DEVELOPMENT THAT IS MORE PROFOUND OR APPALLING THAN THE EPIDEMIC OF VIOLENCE THAT HAS GRIPPED OUR COUNTRY FOR THE PAST THREE DECADES.

THINGS WEREN'T ALWAYS THIS WAY. UP UNTIL 1960, THE LEVEL OF VIOLENT CRIME FLUCTUATED, BUT STAYED WITHIN REASONABLE BOUNDS. SINCE 1960, VIOLENT CRIME HAS INCREASED FIVEFOLD. THAT'S AMAZING WHEN YOU STAND BACK AND LOOK AT IT. THREE DECADES -- A FIVEFOLD INCREASE IN VIOLENT CRIME. NO OTHER SOCIETY THAT KEEPS RELIABLE RECORDS COMES CLOSE. THIS GREAT REPUBLIC HAS THE HONOR OF BEING THE MOST VIOLENT CRIMINAL SOCIETY IN THE WORLD.

IT'S INTERESTING TO LOOK AT THE WHOLE PICTURE. MOST OF THE EXPLOSION IN VIOLENCE OCCURRED IN THE 1960S AND 70S. WE WENT FROM 150 REPORTED CRIMES PER 100,000 TO 600 PER 100,000 IN 1980. IN THE TWELVE YEARS SINCE THEN, WE'VE GONE UP ABOUT ANOTHER 180. SO ESSENTIALLY, IN THE 60S AND 70S WE HAD A 400% INCREASE. AND IN THE ENSUING TWELVE YEARS, WE HAVE HAD A 25% INCREASE, OF COURSE ON A LARGER BASE.

WHILE THE GOOD NEWS MAY BE THAT THE TRAJECTORY IS LEVELING OFF, AND WE'VE MADE SOME PROGRESS, THE BOTTOM LINE IS THAT VIOLENT CRIME TODAY IS AT INTOLERABLY HIGH LEVELS AND IS STILL GROWING.

THERE WAS AN EPISODE JUST YESTERDAY IN WASHINGTON THAT

REALLY EPITOMIZES WHAT I'M TALKING ABOUT. A YOUNG MOTHER WAS DRIVING OUT OF HER SUBURBAN MARYLAND NEIGHBORHOOD TO GO TO WORK. SHE WAS GOING TO DROP OFF HER TWO YEAR-OLD DAUGHTER AT DAYCARE. SHE WAS STILL IN HER NEIGHBORHOOD -- MIDDLE CLASS NEIGHBORHOOD. TWO MALES PULLED HER OUT OF HER CAR, TOOK HER CAR -- CARJACKED -- WITH HER BABY IN THE CAR. IT IS UNCLEAR WHETHER SHE WAS CAUGHT IN THE DOOR PARTIALLY OR WHETHER SHE WAS HOLDING ONTO THE CAR BECAUSE HER KID WAS STILL IN THE CAR. IN ANY EVENT, SHE WAS DRAGGED A MILE AND A HALF AND INTERMITTENTLY THE TWO CARJACKERS WOULD BANG UP AGAINST OBJECTS TO TRY TO PEEL HER OFF. SHE DIED AND FELL OFF THE CAR AFTER A MILE AND A HALF. DURING THIS EPISODE, THE TWO THREW THE BABY IN THE CARSEAT OUT OF THE CAR -- FORTUNATELY THE CHILD SURVIVED.

THIS KIND OF BRUTAL AND VICIOUS CRIME IS ALL TOO COMMON. IN WASHINGTON, JUST THROUGH AUGUST OF THIS YEAR, THERE HAVE BEEN 245 CARJACKINGS. WE'VE ALMOST BECOME IMMUNE TO THIS KIND OF VIOLENCE. WE CAN'T LET OURSELVES AS A PEOPLE ALLOW THIS TO HAPPEN. WHAT CAN WE DO ABOUT THIS KIND OF EPIDEMIC VIOLENCE?

THERE ARE MANY SUGGESTIONS, BUT WHENEVER APPROACHES TO THE PROBLEM ARE DISCUSSED, A DICHOTOMY EMERGES IN THE PUBLIC DISCUSSION AND DEBATE. ON THE ONE HAND YOU HAVE THE ADVOCATES OF THE LAW ENFORCEMENT APPROACH. THIS SEES CRIME AS CAUSED BY CRIMINALS AND BELIEVES YOU DEAL WITH CRIME WITH AGGRESSIVE LAW ENFORCEMENT DESIGNED TO DETER AND INCAPACITATE CRIMINALS. AND

THEN YOU HAVE ON THE OTHER HAND WHAT I CALL THE SOCIAL REHABILITATION RESPONSE TO VIOLENT CRIME. THIS TENDS TO SEE CRIME AS SOMEHOW CAUSED BY SOCIETAL ILLS AND SAYS YOU DEAL WITH CRIME BY SOMEHOW REMEDYING THOSE SOCIETAL ILLS THROUGH VARIOUS SOCIAL PROGRAMS. PROPONENTS OF THIS APPROACH SAY YOU CAN'T FIGHT VIOLENT CRIME WITH LAW ENFORCEMENT, YOU REALLY HAVE TO ATTACK THE "ROOT CAUSES" OF VIOLENT CRIME.

I THINK THE FACT OF THE MATTER IS THAT ULTIMATELY YOU DO NEED A MIX OF BOTH APPROACHES -- IT'S A QUESTION OF BALANCE. WE HAVE TO TAKE AGGRESSIVE STEPS TODAY TO SUPPRESS THE CRIMINALS WHO ARE TODAY PREYING ON PEOPLE. IT'S NICE TO PLAN A BETTER SOCIETY FOR THE FUTURE, BUT PEOPLE DESERVE PROTECTION TODAY. AT THE SAME TIME, WE DO NEED PROGRAMS TO PREVENT THE YOUTH OF TOMORROW FROM BECOMING THE CAREER CRIMINALS OF TODAY. SOME INVESTMENT THAT APPROPRIATE PROGRAMS EARLY ON CAN PREVENT MUCH LARGER LAW ENFORCEMENT PROBLEMS DOWN THE ROAD. BUT I THINK TOO MANY ADVOCATES OF THIS "ROOT CAUSES" APPROACH FAIL TO APPRECIATE THE NEED FOR VIGOROUS LAW ENFORCEMENT. THEY TEND TO DISMISS RELIANCE ON POLICE AND PROSECUTORS AND PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED. ALL TOO FREQUENTLY THEY PRESENT THEIR SOCIAL PROGRAMS AS A SUBSTITUTE -- AN ALTERNATIVE -- FOR STRONG LAW ENFORCEMENT. I FREQUENTLY HEAR PEOPLE SAY, "WE SHOULDN'T BE SPENDING MORE MONEY ON PRISONS, ON PROSECUTORS, ON POLICE -- WE SHOULD BE SPENDING MORE MONEY ON EDUCATION, HOUSING, HEALTH CARE, AND SO FORTH." AND THIS IS A VERY TRENDY POSITION TO TAKE THESE

DAYS. SO MANY PEOPLE SAY, "LAW ENFORCEMENT HASN'T GIVEN US WHAT WE WANT -- LET'S PUT ALL OUR MONEY IN SOCIAL PROGRAMS."

TODAY I WANT TO MAKE THREE BASIC POINTS. FIRST, I WANT TO EXPLAIN WHY I BELIEVE SOCIAL PROGRAMS CANNOT SUBSTITUTE FOR STRONG LAW ENFORCEMENT. ON THE CONTRARY, STRONG LAW ENFORCEMENT HAS TO BE THE FOUNDATION FOR ANY SOCIAL PROGRAM WITH ANY PROSPECT OF SUCCESS.

SECOND, I WANT TO OUTLINE BRIEFLY WHAT I THINK WE HAVE TO DO ON THE LAW ENFORCEMENT FRONT TO HAVE A REAL IMPACT ON VIOLENT CRIME IN THE SHORTER TERM.

AND, FINALLY, I WANT TO DISCUSS HOW WE CAN IMPROVE OUR SOCIAL PROGRAMS, AND SPECIFICALLY HOW WE CAN INTEGRATE LAW ENFORCEMENT AND SOCIAL REHABILITATION EFFORTS TO MAKE THEM BOTH MORE EFFECTIVE.

SO FIRST, LET ME TURN TO WHY I BELIEVE THAT TOUGH LAW ENFORCEMENT RESPONSE MUST BE PARAMOUNT. THOSE WHO WOULD GIVE SHORT SHRIFT TO LAW ENFORCEMENT, AND INSTEAD RELY ON SOCIAL PROGRAMS, ARE MISSING THE BASIC POINT. IN THIS PERVASIVE ATMOSPHERE OF VIOLENCE AND FEAR, EVEN THE BEST DESIGNED SOCIAL PROGRAMS CANNOT TAKE ROOT. THE PROBLEM TODAY IS THAT EFFORTS IN REVITALIZING OUR COMMUNITIES ARE BEING STRANGLERED BY CRIME ITSELF. WHAT HAVE WE BEEN DOING FOR THE PAST 25 YEARS? WE HAVE BEEN

DEALING WITH THE "ROOT CAUSES" -- THAT IS WHAT THE GREAT SOCIETY IS ALL ABOUT. AND WE HAVE BEEN MAKING A TREMENDOUS INVESTMENT IN DEALING WITH THE ROOT CAUSES. IN JUST MEANS-TESTED SOCIAL WELFARE PROGRAMS -- JUST ANTI-POVERTY PROGRAMS -- WE ARE INVESTING RECORD AMOUNTS, \$290 BILLION A YEAR. THAT'S \$3,111 FOR EVERY PERSON WHO PAYS TAXES JUST ON MEANS-TESTED WELFARE PROGRAMS. ADD ON THE TENS OF BILLIONS OF DOLLARS FOR THE NON-MEANS-TESTED PROGRAMS, SUCH AS EDUCATION PROGRAMS, HEALTH PROGRAMS, OTHER KINDS OF PROGRAMS, AND WE ARE TALKING ABOUT A TAX BURDEN OF MANY THOUSANDS OF DOLLARS PER TAXPAYER. WELL UNDER A THOUSAND DOLLARS PER TAXPAYER GOES TO LAW ENFORCEMENT AND CORRECTIONS IN THIS COUNTRY.

I THINK IT IS BECOMING INCREASINGLY CLEAR WHEN WE LOOK ABOUT US, THAT THE SUPPRESSION OF CRIME, ADEQUATE LAW ENFORCEMENT IS AN ABSOLUTE PREREQUISITE FOR ANY OF THESE SOCIAL PROGRAMS TO WORK. WHAT GOOD IS IT TO BUILD PUBLIC HOUSING TO SEE IT JUST TAKEN OVER BY DRUG DEALERS? WHAT GOOD IS IT TO BUILD MODEL SCHOOLS AND JUST TO SEE THOSE SCHOOLS BECOME BATTLEFIELDS FOR GANGS? THOSE ARE NOT ENVIRONMENTS IN WHICH CHILDREN CAN FLOURISH AND LEARN.

I THINK WE ARE ALL FAMILIAR WITH THE CLAIM THAT POVERTY CAUSES CRIME. OBVIOUSLY THERE PROBABLY IS A CAUSE RELATION, BUT TODAY IT IS ALSO CLEAR THAT CRIME IS CAUSING POVERTY. IT'S CRIME THAT IS DESTROYING THE COMMUNITIES, IT IS CRIME THAT IS SNUFFING

OUT OPPORTUNITIES, DRIVING BUSINESSES OUT OF MANY COMMUNITIES, TAKING JOBS AND OPPORTUNITIES WITH THEM. THE FACT IS THAT NO URBAN DEVELOPMENT PROGRAM CAN ARREST THE DECLINE OF OUR CITIES AND NO ANTI-POVERTY SOCIAL PROGRAM CAN TAKE HOLD UNLESS THEY ARE COMBINED FIRST AND FOREMOST WITH STRONG, EFFECTIVE LAW ENFORCEMENT -- TO PROVIDE A STRONG ENOUGH ENVIRONMENT FOR THESE PROGRAMS TO TAKE HOLD.

THAT BRINGS ME TO MY SECOND POINT. HOW DO WE GO ABOUT, ON THE LAW ENFORCEMENT SIDE, HAVING A REAL IMPACT ON VIOLENT CRIME IN THE SHORTER TERM? ARE WE JUST GOING TO SIT BACK AND ALLOW THIS CRIME RATE TO CONTINUE TO BLOW UP? HOW MUCH ARE WE GONG TO TAKE OF THIS AS A SOCIETY?

I THINK FIRST WE ARE GOING TO HAVE TO IDENTIFY THE NATURE OF THE PROBLEM. THE EVIDENCE IS CLEAR THAT THE PROBLEM WITH VIOLENT CRIME TODAY -- THE KIND OF CRIME THAT IS CONTROLLABLE AND PREVENTABLE BY LAW ENFORCEMENT -- IS LARGELY THE PROBLEM OF THE CHRONIC VIOLENT OFFENDER. I THINK STUDY AFTER STUDY SHOWS THAT THERE IS A TINY FRACTION OF THE POPULATION WHO ARE INCORRIGIBLE, HABITUAL, VIOLENT OFFENDERS WHO COMMIT A DISPROPORTIONATE AMOUNT -- A VAST AMOUNT -- OF PREDATORY VIOLENCE IN OUR SOCIETY.

THERE IS THE FAMOUS CALIFORNIA STUDY THAT STUDIED A LARGE COHORT OF MALES IN CALIFORNIA AND FOUND THAT 3.8% OF THE MALES OF THAT GROUP COMMITTED ROUGHLY 60% OF THE CRIMES COMMITTED BY THAT

WHOLE COHORT. NUMEROUS OTHER STUDIES ARE TO THE SAME EFFECT. THERE IS ANOTHER ONE FROM 1980 WHICH FOLLOWED 240 CRIMINALS AND FOUND THAT OVER AN 11 YEAR PERIOD, THEY COMMITTED OVER ONE MILLION CRIMES -- THAT'S 190 CRIMES A PIECE A YEAR.

WE ALL KNOW THE PROFILE OF THESE INDIVIDUALS -- THESE CHRONIC OFFENDERS. THEY START COMMITTING CRIMES WHEN THEY ARE YOUNG. THEY GO RIGHT ON COMMITTING CRIMES AS ADULTS. RECIDIVISM IS A VIRTUAL CERTAINTY. THEY COMMIT CRIMES WHENEVER THEY ARE OUT OF CUSTODY -- THEY COMMIT CRIMES ON BAIL, PROBATION, OR PAROLE.

CITIZENS PICK UP THE NEWSPAPERS EVERY DAY. OF ALL THE VIOLENT CRIMES THEY READ ABOUT, HOW MANY OF THOSE ARE COMMITTED BY NOVICES? NONE. VIRTUALLY NONE. THESE VICIOUS CRIMES ARE COMMITTED BY THOSE WHO ALREADY HAVE A TRACK RECORD. INCREASINGLY, THEY ARE COMMITTED BY INDIVIDUALS WHO ARE UNDER SUPERVISION OF THE COURTS.

LET'S TAKE THIS MARYLAND CASE I MENTIONED IN THE BEGINNING. THE POLICE DID APPREHEND TWO SUSPECTS IN THAT CASE. WHAT WAS THEIR BACKGROUND? WERE THEY NOVICES? NO. THERE WAS A 26 YEAR-OLD WHO HAD BEEN ARRESTED FOR ROBBERY IN 1983, PLED TO A LESSER CHARGE, GOT PROBATION. IN 1984, HE WAS ARRESTED FOR ROBBERY, PROBATION WAS REVOKED, SERVED A LITTLE TIME. IN 1991, HE WAS ARRESTED FOR ASSAULT WITH INTENT TO KILL FOR SHOOTING AN INDIVIDUAL IN THE FACE, CHARGES WERE DISMISSED. FIVE MONTHS

LATER, HE WAS ARRESTED FOR DISTRIBUTION OF HEROIN AND COCAINE, HE WAS RELEASED INTO "OPERATION PROGRESS," A COMMUNITY-BASED PROGRAM IN WHICH HE STAYED IN HIS HOME WITH AN ELECTRONIC MONITOR AND WAS GIVEN TWO TO THREE DRUG TESTS A WEEK. NOW WHILE ON "OPERATION PROGRESS," HE WAS ARRESTED AGAIN ON THE STREETS SELLING HEROIN AND COCAINE. DESPITE THE FACT THAT THIS ARREST WAS A VIOLATION OF HIS CONDITION OF RELEASE, HE WAS RELEASED ON BAIL. BUT HE COULDN'T POST THE \$5000, SO HE WAS RELEASED WITHOUT HAVING TO POST ANYTHING, AND ONE WEEK LATER, HE WAS THE ASSAILANT IN THIS CASE IN MARYLAND.

AND WHO DO YOU THINK THE OTHER ASSAILANT WAS? A 16 YEAR OLD. WE DON'T KNOW HIS RECORD, BECAUSE HE IS A JUVENILE.

GETTING AWAY FROM THIS SPECIFIC CASE AND TALKING GENERALLY, ONE THING IS CLEAR. THAT IS, THAT THE ONLY TIME THESE KINDS OF INDIVIDUALS ARE NOT COMMITTING CRIMES AND ARE NOT A THREAT TO SOCIETY IS WHEN THEY ARE IN PRISON. IN COMBATTING VIOLENT CRIME, THE PRIMARY GOAL OF OUR CRIMINAL JUSTICE SYSTEM MUST BE TO IDENTIFY, TARGET, AND INCAPACITATE THIS HARD-CORE GROUP OF OFFENDERS -- MAKING THEM SERVE LONG SENTENCES AND HOLDING THEM IN CUSTODY FOR A LENGTH OF TIME THAT IS DICTATED BY THE PUBLIC'S SAFETY.

IN MY VIEW, IF WE WANT TO REDUCE VIOLENT CRIME, THIS IS THE ONLY APPROACH THAT HAS HOPE IN OUR LIFETIME AND IN OUR CHILDREN'S

LIFETIMES. SOCIAL PROGRAMS WILL PAYOFF IN THE LONG RUN -- WE'RE TALKING 20 YEARS FROM NOW. AND WE DO HAVE AN OBLIGATION TO THE CITIZENS OVER THOSE TWO DECADES.

I THINK IT'S CLEAR FROM THE HISTORY OF THE PAST 30 YEARS THAT INCARCERATION DOES WORK. THERE IS A LOT OF REVISIONIST HISTORY GOING ON THESE DAYS THAT SUGGESTS LAW ENFORCEMENT HASN'T DONE THE JOB. THE FACT OF THE MATTER IS IF YOU LOOK AT THE HISTORY OF THE PAST 30 YEARS, INCARCERATION AND STRONGER LAW ENFORCEMENT POLICIES HAVE WORKED WHERE THEY HAVE BEEN TRIED.

IN THE 60S AND 70S, INCARCERATION DROPPED DRAMATICALLY. IT DROPPED BY 20% NATIONALLY. FEWER PEOPLE WERE SENT TO PRISON, AND SHORTER PENALTIES WERE SERVED. SO WHAT HAPPENED? THOSE ARE THE TWO DECADES WHERE I SAID THE CRIME RATE WENT UP 400%. NOW IN THE 1980S, WE'VE ALL RECOGNIZED THINGS STARTED TO TURN AROUND. WE STARTED TO REFORM THE FEDERAL SYSTEM AND PROVIDED ADDITIONAL PRISON CAPACITY; NATIONALLY, THE INCARCERATION RATE DOUBLED IN THAT TEN-YEAR PERIOD DURING THE 1980S. WHAT WAS THE RESULT? THE SPIRALING CRIME RATE OF THE 60S AND 70S ABRUPTLY HALTED. IT ACTUALLY DECLINED FOR A PERIOD OF TIME, AND IS NOW HEADING BACK UP, BUT AT A MUCH LOWER RATE. SO, IN FACT, IF YOU LOOK AT THE 80S, THE VIOLENT CRIME RATE DROPPED DURING THE 1980S.

MICHIGAN'S EXPERIENCE ALSO SHOWS THAT INCARCERATION WORKS. WHEN FUNDING FOR PRISON CONSTRUCTION DRIED UP IN THE EARLY 1980S,

THE STATE INSTITUTED AN EARLY RELEASE PROGRAM. AND MICHIGAN WAS ONE OF ONLY TWO STATES IN THE UNION DURING THE EARLY 1980S WHERE THE PRISON POPULATION ACTUALLY DECLINED. BETWEEN 1981 AND 1986, WHILE CRIME NATIONALLY WAS DROPPING, MICHIGAN EXPERIENCED A 25% INCREASE IN VIOLENT CRIME. IN 1986, WHEN MICHIGAN STARTED EXPANDING ITS PRISON CAPACITY, THINGS TURNED AROUND AND THE STATE'S CRIME RATE BEGAN TO FALL. BY THE END OF THE DECADE IT DROPPED FROM 1986 TO 1989 -- WHERE CRIME WAS GOING UP NATIONALLY, MICHIGAN'S DROPPED BY 12%.

SO I THINK ACROSS THE NATION WE ACCOMPLISHED A LOT IN THE 1980S, BUT WE ARE STILL NOT DOING A GOOD JOB OF INCAPACITATING THE VIOLENT OFFENDERS. AND LOOKING AT THE CONTINUING INCREASE IN VIOLENT CRIME -- IT WENT UP 3.6% LAST YEAR -- I THINK THERE ARE THREE MAIN FACTORS CONTRIBUTING TO IT RIGHT NOW:

- CRACK COCAINE IS OBVIOUSLY A FACTOR, BECAUSE THE TREND STARTS IN 1986 AND I THINK THERE IS A CORRELATION TO THE CRACK EPIDEMIC;

- THE BREAKDOWN OF THE FAMILY -- WE ARE SEEING SOARING ILLEGITIMACY RATES, WHICH HAVE TRIPLED SINCE 1965. WE ARE NOW STARTING TO PAY THE CONSEQUENCES OF YOUNG PEOPLE WHO HAVE GROWN UP IN DYSFUNCTIONAL FAMILIES WHO HAVE HAD NO MORAL GUIDANCE. THAT IS REFLECTED IN THE INCREASING JUVENILIZATION OF CRIME;

- AND THIRD, THE RELAPSE BY THE STATES TO REVOLVING DOOR JUSTICE. MANY STATES ARE GOING BACK TO THE REVOLVING DOOR DAYS OF THE 60S AND 70S, AND THIS IS THE FACTOR OVER WHICH WE HAVE THE MOST IMMEDIATE AND DIRECT CONTROL IN LAW ENFORCEMENT AND AS A SOCIETY.

NOW RIGHT NOW ACROSS THE NATION, THERE ARE STILL HUNDREDS OF THOUSANDS OF VIOLENT OFFENDERS WITH EXTENSIVE RECORDS WHO ARE BEING CYCLED QUICKLY THROUGH THE CRIMINAL JUSTICE SYSTEM, SPENDING A SHORT TIME IN PRISON AND THEN GOING BACK OUT ON THE STREETS TO MAKE ROOM FOR THE NEXT WAVE.

BY AND LARGE IN THIS COUNTRY, WHAT IS HAPPENING TO OUR CRIMINAL JUSTICE SYSTEM IS CLEAR. THE POLICE AND THE PROSECUTORS ARE DOING A SUPERB JOB IN APPREHENDING AND CONVICTING VIOLENT OFFENDERS. THE REST OF THE SYSTEM IS LETTING THEM DOWN AND NULLIFYING THEIR EFFORTS BY PREMATURELY RELEASING THESE VIOLENT OFFENDERS ONTO THE STREETS. THE DATA FROM AROUND THE COUNTRY SHOWS THAT RIGHT NOW, 37% OF THE SENTENCES ARE SERVED -- AND THAT NUMBER IS DROPPING. IN MANY OF OUR STATES, WE ARE DOWN TO 15% OF SENTENCE SERVED -- TEXAS AND FLORIDA ARE IN THAT RANGE. FIVE OUT OF EVERY EIGHT FELONS ARE RELEASED EARLY AND REARRESTED WITHIN 3 YEARS FOR ANOTHER SERIOUS CRIME. 30% OF ALL MURDERS -- 6,500 OF OUR FELLOW CITIZENS -- ARE SLAUGHTERED EVERY YEAR BY PEOPLE WHO ARE ON BAIL, PROBATION, OR PAROLE. IF WE ARE GOING TO DO A BETTER JOB IN REDUCING VIOLENT CRIME, WE ARE GOING TO HAVE TO

INCAPACITATE THIS CHRONIC OFFENDER BETTER THAN WE ARE DOING NOW -
- AND STOP THE REVOLVING DOOR.

AS I SAID, THERE ARE A LOT OF PEOPLE SAYING "WELL,
INCARCERATION HASN'T WORKED BECAUSE THE CRIME RATE IS STILL GOING
UP." I THINK THAT'S OBVIOUSLY A FRIVOLOUS ARGUMENT. THE ISSUE
IS NOT WITH THE CRIME RATE, THE ISSUE IS: WHAT WOULD THE CRIME
RATE HAVE BEEN BUT FOR THE INCARCERATION POLICIES BEING FOLLOWED?
I DON'T THINK ANYONE CAN SERIOUSLY ARGUE IF WE TOOK 500,000
PEOPLE AND LET THEM OUT ON THE STREETS, WE WOULD HAVE A SAFER
SOCIETY. OR THAT THERE WOULD BE NO IMPACT ON THE CRIME RATE. I
HAVE A STANDING OFFER TO ANYONE WHO ARGUES THIS: I WILL RELEASE
ANY 10 FEDERAL PRISONERS AS LONG AS THEY CAN LIVE IN YOUR
BASEMENT. [LAUGHTER]

THERE ARE PEOPLE WHO SAY, "WE HAVE SUCH A PUNITIVE SYSTEM,
WE HAVE MORE PEOPLE IN PRISON THAN ANYWHERE ELSE. WE ARE LIKE
THE SOVIET UNION USED TO BE -- OR WORSE." THE FACT OF THE MATTER
IS WE ARE NOT TOO PUNITIVE. WE ARE NOT PUNITIVE ENOUGH. WE ARE
FAR LESS PUNITIVE THAN WE WERE IN THE 1950S. THE REASON THERE
ARE SO MANY PEOPLE IN PRISON IS WE HAVE A HIGH CRIME RATE, MUCH
HIGHER THAN THESE OTHER COUNTRIES. BUT YOUR CHANCES OF BEING PUT
IN PRISON ARE THE SAME IN THE UNITED STATES AS THEY ARE IN
CANADA, GREAT BRITAIN, AND ALL THE OTHER DEMOCRACIES. THE REASON
WE HAVE MORE PRISONS ARE BECAUSE WE HAVE MORE PEOPLE OUT THERE
COMMITTING CRIMES.

THERE IS AN INTERESTING INDEX WHICH IS THE ANTICIPATED DAYS YOU CAN EXPECT TO SERVE WHEN YOU COMMIT A CRIME. IN 1959, THE ANTICIPATED DAYS SERVED PER CRIME IN THE UNITED STATES WAS 93 DAYS. BY 1975, IT HAD FALLEN TO 14 DAYS. SINCE THE 1980S, IT IS NOW 20 SOMETHING DAYS. WE ARE FAR LESS PUNITIVE THAN WE USED TO BE.

IF WE ARE GOING TO STAY ON TRACK AND CONTINUE WITH THE STRONG LAW ENFORCEMENT POLICIES THAT WE DID DURING THE 1980S, I THINK IT IS GOING TO REQUIRE THREE THINGS:

FIRST, RESOURCES -- CONTINUED INVESTMENT IN LAW ENFORCEMENT. NOW IS NOT THE TIME TO BE SCRIMPING ON LAW ENFORCEMENT. IT IS THE FIRST DUTY OF GOVERNMENT AND WE MUST MONEY PUT INTO LAW ENFORCEMENT. MANY OF THE NICE IDEAS THAT PEOPLE HAVE, LIKE COMMUNITY POLICING, DON'T COME CHEAP. ALTERNATIVE SENTENCING AND INTENSE SUPERVISION IN THE COMMUNITY, IF DONE RIGHT, AREN'T CHEAP EITHER. SO THERE IS NO CHEAP WAY TO BUY LAW ENFORCEMENT.

WE HAVE TO REMIND PEOPLE ULTIMATELY THAT WE ARE SAVING MONEY FOR THE GOVERNMENT FOR EVERY DOLLAR WE PUT INTO LAW ENFORCEMENT. LAW ENFORCEMENT IS A GOOD INVESTMENT. THE PRICE OF NOT INVESTING IN LAW ENFORCEMENT IS FAR HIGHER IN DEVASTATION TO SOCIETY. EVERY DOLLAR PUT INTO LAW ENFORCEMENT SAVES MONEY, AND WE HAVE TO START LOOKING INTO THAT AND REMINDING PEOPLE OF THAT.

THE SECOND THING WE HAVE TO I THINK IS REFORM OUR CRIMINAL JUSTICE SYSTEM. ALL THE RESOURCES IN THE WORLD, ALL THE POLICEMEN, ALL THE NEW PROSECUTORS, ALL AMOUNT TO A HILL OF BEANS WITH A CRIMINAL JUSTICE SYSTEM THAT IS OPERATING LIKE A SIEVE. IN FAR TOO MANY STATES, THAT IS THE CASE.

IN THE 1980S, WE REFORMED THE FEDERAL SYSTEM. WE GOT TOUGH PRE-TRIAL DETENTION, ABOLISHED PAROLE WITH DETERMINATE SENTENCING, GOT STIFF MANDATORY MINIMUMS, AND NOW THE TOUGHEST CRIMINAL SYSTEM IS THE FEDERAL SYSTEM.

BUT REFORM AT THE FEDERAL LEVEL CAN ONLY TAKE US SO FAR. WE ARE GOING TO HAVE TO FOLLOW THROUGH AND REFORM THE STATE SYSTEM. MOST VIOLENT CRIME FALLS WITHIN THE RESPONSIBILITY OF STATE AND LOCAL GOVERNMENT, AND IT SHOULD REMAIN THERE.

ON JULY 28, I ISSUED A VIOLENT CRIME REPORT WHICH HAS A CITIZENS' CHECKLIST TO REVIEW STATE CRIMINAL JUSTICE SYSTEMS. IT PROVIDES A CITIZEN WITH A WAY OF WEIGHING THE CRIMINAL JUSTICE SYSTEM IN HIS STATE, AND CONTAINS 24 SPECIFIC RECOMMENDATIONS OF HOW TO STRENGTHEN THE CRIMINAL JUSTICE SYSTEM. IT CONTAINS, FOR EXAMPLE, SEVERAL PROPOSALS ON TOUGHER PRE-TRAIL DETENTION, ABOLITION OF PAROLE, TRUTH IN SENTENCING, PROTECTION FOR VICTIMS IN THE CRIMINAL JUSTICE PROCESS, AND NUMEROUS OTHERS. IT WAS THE PRODUCT OF BROAD CONSULTATION IN THE LAW ENFORCEMENT COMMUNITY, AND IT HAS BEEN WIDELY PRAISED SINCE ITS RELEASE BY THE LAW

ENFORCEMENT COMMUNITY AND BY VICTIMS GROUPS.

THE DAY I RELEASED THE REPORT, I WAS JOINED IN SUPPORT BY THE PRESIDENT OF THE NATIONAL DISTRICT ATTORNEYS' ASSOCIATION; THE PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE; THE PRESIDENT OF THE NATIONAL SHERIFFS ASSOCIATION; THE CHAIRMAN OF THE STATE ATTORNEYS GENERAL VIOLENT CRIME COMMITTEE; AND THE HEADS OF TWO MAJOR VICTIMS GROUPS. I AM HAPPY TO SAY THAT SINCE THAT TIME, NOVA, THE OLDEST AND LARGEST VICTIMS ORGANIZATION IN THE UNITED STATES HAS ENDORSED THE REPORT. THIS WAS ALL ON A BIPARTISAN BASIS.

I COMMEND GOVERNOR ENGLER FOR PROCEEDING WITH REFORM OF THE CRIMINAL JUSTICE SYSTEM HERE. SOME OF THE PROPOSALS THAT HE PUT FORTH WERE IN THE REPORT, AND I HOPE THAT THIS REPORT WILL BE OF USE TO THOSE IN MICHIGAN AND ACROSS THE COUNTRY WHO WANT TO STRENGTHEN THEIR CRIMINAL JUSTICE SYSTEM.

THE AVERAGE CITIZEN KNOWS THAT THE SYSTEM IS BROKEN AND HAS BECOME DISGUSTED BY IT. THEY JUST DON'T UNDERSTAND HOW IT CAN BE BROKEN, AND WHAT CAN BE DONE TO FIX IT. THIS REPORT TRIES TO EXPLAIN TO CITIZENS WHAT THE CRIMINAL JUSTICE SYSTEM HAS TO BE ABLE TO DO, HOW THE SYSTEM IS BROKEN TODAY, AND WHAT CAN BE DONE TO FIX IT.

BEYOND THE NEED FOR REFORM AND RESOURCES, WE ARE GOING TO

HAVE TO HAVE AN UNPRECEDENTED DEGREE OF COOPERATION AMONG ALL LEVELS OF LAW ENFORCEMENT -- IN ORDER TO FOCUS OUR RESOURCES AS BEST WE CAN TO GET THE GREATEST BANG FOR THE BUCK.

MY PHILOSOPHY HAS BEEN TO SEEK A MAXIMUM DEGREE OF COOPERATION BETWEEN FEDERAL, STATE AND LOCAL LAW ENFORCEMENT AGENCIES, ESPECIALLY THROUGH AGGRESSIVE USE OF OUR FEDERAL LAWS WHERE OUR STATE AND LOCAL COLLEAGUES BELIEVE THEY WILL NEED HELP IN TRYING TO REACH THEIR OBJECTIVES.

JUST TO GIVE YOU TWO EXAMPLES TO THE KINDS OF PROGRAMS THAT I THINK ARE USEFUL: FIRST, THE TRIGGERLOCK PROGRAM -- WHERE WE ARE USING OUR FIREARM STATUTES TO GO AFTER THE CHRONIC FIREARMS OFFENDERS AND PUT THESE INDIVIDUALS AWAY FOR A LONG TIME IN THE FEDERAL SYSTEM. IN OUR FIRST YEAR WE GOT 6,500 INDIVIDUALS CHARGED, AND THE CONVICTION RATE IS RUNNING OVER. SO FAR, THE AVERAGE SENTENCE IS SEVEN YEARS WITHOUT PAROLE, AND FOR THREE-TIME LOSERS -- PEOPLE WITH THREE PRIOR FELONY CONVICTIONS -- CAUGHT IN POSSESSION OF A FIREARM, THE AVERAGE SENTENCE THERE IS 18 YEARS WITHOUT PAROLE. THE PACE OF THE PROGRAM HAS INCREASED SUBSTANTIALLY, AND I THINK THAT IN OUR SECOND YEAR OF THE PROGRAM WE'LL HAVE FAR MORE INDIVIDUALS THAN THOSE 6,500.

THERE IS NO REASON WHY THE FEDERAL SYSTEM SHOULD HAVE A TRIGGERLOCK PROGRAM AND THE SYSTEMS NOT HAVE THEM. IN MANY OF OUR JURISDICTIONS, WE ARE GETTING ANECDOTAL INFORMATION THAT

FELONS ARE LEAVING THEIR FIREARMS AT HOME -- BECAUSE THEY HEAR THE FEDS ARE GOING TO GET THEM WITH THIS TRIGGERLOCK PROGRAM. AND THAT SHOULD BE THE CASE IN EVERY STATE, JUST ON THE BASIS OF TOUGHER STATE LAWS.

ANOTHER EXAMPLE ARE TASK FORCES. WE STARTED THESE ANTI-GANG TASK FORCES BASED ON OUR EXPERIENCE IN PHILADELPHIA AND ELSEWHERE, AND WE ARE STARTING TO SEE SOME RESULTS OF THOSE TASK FORCES. WEED AND SEED IS NOT A SUBSTITUTE FOR A TASK FORCE OPERATION. WE STRONGLY SUPPORT MULTI-JURISDICTIONAL TASK FORCES. I HAVE SOUGHT MORE RESOURCES TO SUPPORT TASK FORCES, EVEN AT THE EXPENSE OF ADDING SOME OF OUR OWN DIRECT AGENT STRENGTH FROM THE DEPARTMENT OF JUSTICE. NOTHING WE WILL DO ON THE WEED AND SEED SIDE WILL IN ANY WAY DEGRADE OR TAKE RESOURCES AWAY FROM THOSE PROGRAMS.

THE BOTTOM LINE ON ENFORCEMENT IS: IF YOU FOCUS ON CHRONIC CRIMINALS; STOP GIVING PEOPLE SO MANY BITES OF THE APPLE; PUT THE RESOURCES THAT ARE ESSENTIAL INTO LAW ENFORCEMENT; REFORM OUR SYSTEMS; WORK WITH A LOT OF COOPERATION WITH LAW ENFORCEMENT; AND PUT OUR RESOURCES WHERE THEY WILL HAVE THE HIGHEST IMPACT; I THINK WE CAN BRING THE CRIME RATE DOWN AND CHANGE THE PROFILE OF THE INCREASES WE HAVE BEEN SEEING.

THAT BRINGS ME TO MY LAST POINT. AS I SAID AT THE OUTSET, LAW ENFORCEMENT CAN'T DO THE JOB ALONE. TO ACHIEVE ANY REAL

SUCCESS IN STOPPING CRIME AND IN BUILDING UP OUR COMMUNITIES, WE DO NEED SOCIAL PROGRAMS. BUT HOW DO WE GO ABOUT THE TASK OF REVITALIZING OUR COMMUNITIES? WHAT TYPES OF SOCIAL PROGRAMS SHOULD WE RELY ON?

THERE ARE THOSE WHO SAY ALL WE NEED IS ANOTHER MASS INFUSION OF SOCIAL SPENDING. I FREQUENTLY HEAR THE ARGUMENT THAT "LAW ENFORCEMENT HASN'T BEEN DOING THE JOB -- WE SHOULD BE PUTTING MORE INTO SOCIAL PROGRAMS." I BELIEVE THAT VIEW IS MISTAKEN. OVER THE PAST 25 YEARS WE HAVE PUT UNPRECEDENTED AMOUNTS OF MONEY INTO SOCIAL PROGRAMS. THERE HAVE BEEN NO CUTBACKS IN RECENT YEARS -- THERE HAS BEEN REASONABLE GROWTH EVERY SINGLE YEAR. I THINK ANY FAIR-MINDED OBSERVER WOULD HAVE TO SAY THAT HERE HAS ALSO BEEN DISAPPOINTMENT IN WHAT HAS HAPPENED IN THE PAST 25 YEARS.

WE HAVE TO TAKE STOCK, LEARN FROM OUR MISTAKES, AND REFORM THE WAY WE ARE DOING BUSINESS. OUR PROBLEM IS NOT THE AMOUNT OF MONEY WE ARE SPENDING, BUT THE WAY WE ARE SPENDING IT. IT IS NOT THE SCALE OF OUR SOCIAL PROGRAMS, BUT THE STRUCTURE OF OUR PROGRAMS THAT HAS BEEN THE FAULT. I SEE A NUMBER OF DEFICIENCIES OVER THE PAST 25 YEARS:

FIRST, THERE HAS BEEN NO LINKAGE BETWEEN LAW ENFORCEMENT AND SOCIAL PROGRAMS. WE HAD THE FEDERAL GOVERNMENT SPENDING OUR MONEY ON THE MODEL CITIES FRONT WITH ONE HAND, AND ON THE

L.E.A.A. FRONT WITH ANOTHER. THE TWO HAVE NEVER BEEN INTEGRATED IN A MUTUALLY SUPPORTIVE WAY. I THINK WE ARE GOING TO HAVE TO COME TO RECOGNIZE THAT SOCIAL PROGRAMS NEED THE FOUNDATIONS OF STRONG LAW ENFORCEMENT. WE HAVE TO INTEGRATE SOCIAL SPENDING WITH LAW ENFORCEMENT SPENDING.

SECOND, SOCIAL PROGRAMS ARE DISJOINTED. THEY HAVE BEEN UNCOORDINATED. JUST AT THE FEDERAL LEVEL, WE HAVE ALL THESE DIFFERENT AGENCIES SPEWING OUT THEIR PLANS BUT NEVER INTEGRATING THEM INTO A COHERENT POLICY. DRUG PREVENTION WENT TO THIS CITY, A YOUTH GRANT WOULD BE A NICE SUPPLEMENT TO IT, BUT INSTEAD OF GIVING THEM THE OPPORTUNITY TO SEE HOW THEY BOTH WORK, SOME OTHER AGENCY GIVES A YOUTH GRANT TO SOME OTHER CITY.

THE MILITARY HAS LEARNED AFTER GRENADA HOW TO HAVE INTEGRATION AND ORGANIZATION. THERE IS A LOT OF ORGANIZATION IN GOVERNMENT, THE HARD THING TO DO IS A HORIZONTAL COORDINATION TO BRING TOGETHER TO BEAR OUR SPECIFIC PROBLEMS. THE MILITARY ACHIEVED THAT -- THE COMMANDER-IN-CHIEF CAN SELECT FROM THE MENU AND BRING ALL THE RESOURCES THAT THEY ARE AWARE OF TOGETHER. WE HAVE TO WITH LAW ENFORCEMENT AND SOCIAL PROGRAMS WHAT THE MILITARY DID IN THE WAKE OF GRENADA, IN RESTRUCTURING OUR PROGRAMS.

THE THIRD PROBLEM IS LACK OF LOCAL COMMUNITY INVOLVEMENT AND CONTROL OF LOCAL PROGRAMS. OUR PROGRAMS TEND TO BE

PATERNALISTIC, HANDLED FROM WASHINGTON, WITH DECISIONS MADE FOR THE COMMUNITY BY REMOTE BUREAUCRATS. THOSE DON'T WORK. I THINK THE EVIDENCE IS CLEAR: PEOPLE THEMSELVES HAVE TO BE INVOLVED IN FRAMING THE SOLUTIONS. INSTEAD OF SUPPORTING THE LOCAL COMMUNITY LEADERSHIP, WE HAVE BEEN TRYING TO SUPPLANT THEM.

ON THE LAW ENFORCEMENT SIDE, WE HAVE LEARNED OUR LESSON IN THE PAST 25 YEARS. WE DO HAVE TO BE MORE COMMUNITY-BASED. SWEEPS THEMSELVES DON'T WIN LASTING SECURITY, WHICH IS THE ULTIMATE OBJECTIVE OF LAW ENFORCEMENT. AND WE HAVE TO SHIFT OUR THINKING FROM A BODY COUNT WAR TO A TERRITORIAL WAR. OUR OBJECTIVE HAS TO BE TO SECURE GROUND AND NOT PAY FOR THE SAME REAL ESTATE TWICE. MORE AND MORE LAW ENFORCEMENT AGENCIES ARE LOOKING AT THE TERRITORIAL WAR, AND THE CONCEPT OF COMMUNITY POLICING IS EVOLVING FROM THE POLICE AGENCIES THEMSELVES. IT BUILDS THE PARTNERSHIP WITH THE COMMUNITY, AND THEN ENGAGES EVERYONE IN SOLVING THE PROBLEMS OF THE COMMUNITY.

THE PRESENT WEED AND SEED PROGRAM TRIES TO DRAW FROM THESE EXPERIENCES AND PROVIDE A FRAMEWORK FOR BOTH LAW ENFORCEMENT AND SOCIAL SPENDING. IT'S NOT A NEW SPENDING PROGRAM, ALTHOUGH WE ARE SEEKING ADDITIONAL RESOURCES. IT IS MORE A WAY OF OPERATING -- TO TRY AND LEARN FROM PAST MISTAKES. IT IS COMMUNITY BASED. IT FOCUSES ON TARGETED AREAS. IT TRIES TO DRAW ON ALL RESOURCES -- LAW ENFORCEMENT, SOCIAL PROGRAMS, PUBLIC AND PRIVATE, STATE, LOCAL, FEDERAL. IT RELIES ON LOCAL CONTROL, NOT WASHINGTON

BUREAUCRATS. IT PUTS DISTRICT ATTORNEYS, POLICE CHIEFS, AND THE U.S. ATTORNEYS INTO THE LEADERSHIP TEAM WORKING WITH THE COMMUNITY TO ADDRESS PROBLEMS -- BUILDING UP LOCAL INSTITUTIONS, NOT SUPPLANTING THEM. IT RECOGNIZES THE NEED FOR STRONG LAW ENFORCEMENT AS A FOUNDATION FOR SOCIAL PROGRESS, AND THEREFORE, IT RELIES HEAVILY ON LAW ENFORCEMENT OPERATIONS AND COMMUNITY POLICING.

SIMILAR THINKING HAS BEEN GOING ON IN MICHIGAN. THE "COMMUNITIES FIRST" PROGRAM PARALLELS THIS TO A GREAT EXTENT. THE SAME PHILOSOPHY IS COMPATIBLE WITH WEED AND SEED. I SEE TREMENDOUS POSSIBILITY IN MARRYING UP OUR WEED AND SEED APPROACH AND THOSE RESOURCES WITH THE "COMMUNITIES FIRST" APPROACH IN MICHIGAN.

I HOPE THE PRESIDENT GETS THE RESOURCES HE'S ASKING FOR FROM CONGRESS. IT LOOKS AS IF HE'S GOING TO FOR NEXT YEAR, IN WHICH CASE, WE WILL HAVE AN OPPORTUNITY TO WORK WITH MICHIGAN TO MAKE THE "COMMUNITIES FIRST" PROJECT AND THE WEED AND SEED PROJECT MODELS FOR THE NATION. BUT EVEN IF WE DON'T GET THOSE RESOURCES, WEED AND SEED DOESN'T REQUIRE ANY RESOURCES -- IT'S A WAY OF OPERATING. THERE IS NO REASON TO WAIT FOR THESE RESOURCES.

SO, IN CONCLUSION, MY MESSAGE TODAY IS REALLY THREEFOLD. FIRST, SOCIAL PROGRAMS CANNOT SUBSTITUTE FOR STRONG LAW ENFORCEMENT. IN FACT, LAW ENFORCEMENT HAS TO BE THE FOUNDATION.

WE MAY NOT BE THE WHOLE SOLUTION, BUT THERE CAN BE NO SOLUTION WITHOUT EFFECTIVE LAW ENFORCEMENT.

SECOND, THE ONLY WAY TO REDUCE VIOLENT CRIME IN THE SHORT TERM IS TO TARGET THE VIOLENT OFFENDERS, STRENGTHEN OUR SYSTEMS, AND BE WILLING TO INVEST THE KIND OF RESOURCES NEEDED TO INCAPACITATE THESE INDIVIDUALS. THE FEDERAL GOVERNMENT CAN HELP WITH SUCH PROGRAMS AS TRIGGERLOCK, BUT ULTIMATELY THE STATES THEMSELVES HAVE TO ADOPT THESE REFORMS AND TOUGHEN UP THERE OWN CRIMINAL JUSTICE SYSTEMS.

AND THIRD, POURING MORE MONEY INTO SOCIAL PROGRAMS IS NOT THE ANSWER TO REDUCING CRIME. INSTEAD, WE HAVE TO BE SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE. WE NEED PROGRAMS THAT FOSTER OPPORTUNITY, NOT DEPENDENCY, AND WHICH RECOGNIZE THAT THEY HAVE TO GO HAND IN HAND WITH STRONG LAW ENFORCEMENT. THE PROBLEMS WE HAVE TODAY TOOK DECADES TO BUILD UP, AND WE AREN'T GOING TO SOLVE THEM OVERNIGHT. BUT I DO THINK THAT THIS AGENDA DOES HOLD SOME PROSPECT FOR A SAFER AND JUSTER AMERICA.

THANK YOU VERY MUCH. I HOPE YOU HAVE A SUCCESSFUL CONFERENCE.

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Department of Justice

REMARKS MADE BY

WILLIAM P. BARR

ATTORNEY GENERAL OF THE UNITED STATES

AT THE OCDETF CONFERENCE

SAN ANTONIO, TEXAS

SEPTEMBER 2, 1992

GOOD MORNING. IT IS A GREAT PLEASURE FOR ME TO BE HERE THIS MORNING. AND FOR THOSE OF YOU WHO PLAY A PART IN THE ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE (OCDETF) PROGRAM, YOU ARE THE LEADERS AND THE WARRIORS IN OUR NATION'S GREATEST STRUGGLE -- THE WAR ON DRUGS. THIS YEAR IS OCDETF'S TENTH ANNIVERSARY. AND THIS WEEK IN SAN ANTONIO WE ARE TRULY MARKING A DECADE OF EXCELLENCE, AND A DECADE OF ACHIEVEMENT. AND SO I'D LIKE TO BEGIN BY THANKING EVERYONE HERE FOR THE OUTSTANDING WORK THAT YOU HAVE DONE OVER THE PAST 10 YEARS.

ALTHOUGH WE STILL HAVE A LONG WAY TO GO IN THE WAR ON DRUGS, A GREAT DEAL HAS BEEN ACCOMPLISHED AND MUCH OF THE CREDIT MUST GO TO THE MEN AND WOMEN IN THIS ROOM, AND I THANK YOU.

AS ATTORNEY GENERAL I'VE TRIED TO SET FORTH A CLEAR SET OF PRIORITIES. STARTING WITH MY CONFIRMATION HEARINGS AND REPEATEDLY SINCE THAT TIME I'VE MADE IT CLEAR THAT THIS ADMINISTRATION'S FIRST AND HIGHEST LAW ENFORCEMENT PRIORITY IS THE ALL-OUT PROSECUTION OF THE WAR ON DRUGS. AND THIS REFLECTS OUR PRESIDENT'S UNWAVERING COMMITMENT TO RIDDING OUR COUNTRY OF THE SCOURGE OF DRUGS. ILLEGAL DRUG TRAFFICKING AND THE ADDICTION AND VIOLENCE IT SPAWNS ARE THE MOST INSIDIOUS THREATS THAT OUR NATION HAS FACED. I DON'T THINK WE CONFRONTED A GREATER CHALLENGE AS A PEOPLE IN OUR HISTORY. AND WE TRULY ARE ENGAGED IN A WAR. THE COSTS OF THIS WAR IN BLOOD, TREASURE AND SPIRIT,

RIVAL THE COST OF ANY OTHER CONFLICT WE HAVE WAGED. IN ONE WAY OR ANOTHER, ALL AMERICANS ARE VICTIMS OF ILLEGAL DRUGS. DRUGS AFFECT EVERY CITIZEN OF OUR COUNTRY, FROM CRACK ADDICTED BABIES TO SENIOR CITIZENS BEATEN AND ROBBED BY DRUG USERS TO LOVED ONES WHOSE LIVES HAVE BEEN POISONED BY DRUGS. NO PART OF SOCIETY IS UNTOUCHED BY THE MISERY AND SUFFERING CAUSED BY DRUGS AND DRUG TRAFFICKERS. THEY WREAK HAVOC ON OUR NEIGHBORHOOD STREETS, IN OUR SCHOOLS, IN OUR WORKPLACES. DRUG ADDICTION TAKES AN ENORMOUS TOLL ON OUR SOCIETY.

THE COST OF JUST ONE ASPECT OF ADDICTION IS STAGGERING. EVERY YEAR MORE THAN 375,000 INFANTS ARE BORN WITH SOME TYPE OF DRUG RELATED PROBLEM. AND THESE KIDS FACE A LIFETIME OF SERIOUS HEALTH AND LEARNING DISABILITIES. OVER THE NEXT TEN YEARS WE WILL SPEND \$100 BILLION ON MEDICAL CARE AND EDUCATIONAL PROGRAMS TO TREAT THOSE INFANTS EXPOSED TO COCAINE. AND THAT IS JUST ONE ASPECT OF THE ADDICTION PROBLEM.

ILLEGAL DRUG USE ALSO PLACES HUGE BURDENS ON THE AMERICAN ECONOMY AND OUR BUSINESSES IN THE FORM OF ABSENTEEISM, INDUSTRIAL ACCIDENTS, HIGHER INSURANCE PREMIUMS AND LOSS OF PRODUCTIVITY AND COMPETITIVENESS IN THE WORLD. IT IS ESTIMATED THAT DRUG ABUSE COSTS THE AMERICAN BUSINESS COMMUNITY BETWEEN \$60 AND \$100 BILLION A YEAR.

OF COURSE THE CRIPPLING FINANCIAL STRAIN CAUSED BY DRUGS IS

ONLY PART OF THE STORY. ANOTHER MORE TRAGIC ASPECT, AS WE ALL KNOW, IS THE VIOLENT TRAUMA THAT GOES HAND IN HAND WITH DRUG TRADING. WE KNOW THAT VIOLENT CRIME IS AT INTOLERABLY HIGH LEVELS IN OUR SOCIETY TODAY AND WE KNOW THAT DRUG TRAFFICKING AND DRUG ABUSE IS THE SINGLE GREATEST CAUSE OF THIS EPIDEMIC OF VIOLENCE. WE KNOW THAT PEOPLE WHO USE DRUGS COMMIT A DISPROPORTIONATELY HIGH PERCENTAGE OF VIOLENT CRIMES WE SEE ABOUT US. NOW IT'S HARD TO PUT A PRECISE PRICE TAG ON THE DAMAGE DONE BY THIS DRUG-RELATED VIOLENCE THAT PLAGUES OUR CITIES, SUBURBS, AND NOW OUR RURAL AREAS. THE DIRECT ECONOMIC LOSS MIGHT EXCEED \$100 BILLION A YEAR. AND THEN THERE ARE MORE INTANGIBLE -- BUT NO LESS PALPABLE -- COSTS OF VIOLENT CRIME:

-- THE PERVASIVE ANXIETY AND FEAR THAT COSTS THE LIVES OF OUR CITIZENS.

-- THE FEAR THAT FORCES MANY IN OUR INNER CITIES TO LIVE BEHIND BARS AS PRISONERS IN THEIR OWN HOMES.

-- THE FEAR THAT DESTROYS COMMUNITIES AND THE FEAR THAT DRIVES HOPE AND OPPORTUNITY AWAY.

NOW WE DIDN'T GET TO THIS SAD STATE OF AFFAIRS OVERNIGHT. IT TOOK US AT LEAST 25 YEARS -- SINCE THE MID-1960'S -- TO DIG OURSELVES INTO THIS HOLE. AND DURING MUCH OF THIS TIME, MANY INFLUENTIAL SEGMENTS OF OUR SOCIETY TOOK AN EXTREMELY PERMISSIVE ATTITUDE TOWARD DRUG USE. FOR TOO LONG, OUR YOUNG PEOPLE WERE SENT EXACTLY THE WRONG MESSAGES: THAT MARIJUANA WAS NOT HARMFUL; THAT COCAINE WAS NOT ADDICTIVE; THAT THERE WAS SUCH A THING AS A

RECREATIONAL USE OF DRUGS. AND WELL INTO THE 1980'S, THE MOVIE INDUSTRY AND THE POPULAR CULTURE GLAMORIZED DRUG USE. THIS PERMISSIVENESS HAD A DEVASTATING IMPACT. AND BY THE EARLY 1980'S THERE WERE OVER 25 MILLION USERS OF ILLEGAL DRUGS IN THIS COUNTRY.

FINALLY IN THE 1980'S WE WOKE UP. WE DECLARED OUR WAR ON DRUGS.

BUT NOW TODAY, THERE ARE SOME CRITICS WHO STAND ON THE SIDELINES HOLDING A STOPWATCH ASKING WHY THE WAR ON DRUGS ISN'T OVER YET -- AS IF 25 YEARS OF ADDICTION IS SUPPOSED TO DISAPPEAR OVERNIGHT; AS IF, AFTER DECLARING THE WAR ON DRUGS, WE WERE SUPPOSED TO WAKE UP THE NEXT MORNING AND FIND THAT OUR DRUG PROBLEM HAD VANISHED. FRANKLY, MANY OF THESE CRITICS WHO ARE HOLDING A STOPWATCH ARE THE SAME PEOPLE WHO, BY ADVOCATING THE PERMISSIVENESS DURING THE 60'S AND 70'S, DID ABSOLUTELY NOTHING TO PREVENT THE SPREAD OF THE DRUG CULTURE WE NOW FIND SO DIFFICULT TO ERADICATE. CRITICS OF THE DRUG WAR WANT INSTANT GRATIFICATION, NOW, JUST LIKE THEY WANTED INSTANT GRATIFICATION IN THE 60'S AND 70'S .

AT THE FIRST SIGN OF ADVERSITY -- AT THE FIRST SIGN THAT THIS IS GOING TO BE A HARD, AND LONG FIGHT -- THEY ARE READY TO DECLARE DEFEAT AND THROW IN THE TOWEL.

WELL, I THINK THE AMERICAN PEOPLE WILL IGNORE THESE DEFEATISTS AND WILL SHOW -- IN THE FIGHT AGAINST DRUGS -- THE SAME STAMINA, MATURITY, AND STEADY DETERMINATION THAT THEY DID IN WAGING AND WINNING THE LONG COLD WAR.

AND I THINK THE AMERICAN PEOPLE UNDERSTAND THAT A PROBLEM AS DEEP AS THE DRUG PROBLEM CANNOT BE SOLVED QUICKLY OR EASILY. IT WILL TAKE NATIONAL POLITICAL WILL AND COMMITMENT, AS WELL AS THE LONG-TERM SUSTAINED EFFORT BY LAW ENFORCEMENT AND BY EVERY SEGMENT OF SOCIETY, TO RESCUE OUR NATION FROM THE SCOURGE OF DRUGS.

ALMOST THREE YEARS AGO, PRESIDENT BUSH SET FORTH THE FIRST COMPREHENSIVE STRATEGY FOR FIGHTING THE WAR ON DRUGS. AND THE PRESIDENT HAS BACKED UP HIS PLAN WITH UNPRECEDENTED RESOURCES TO CARRY IT OUT. WITH THE PRESIDENT'S BUDGET REQUEST THIS YEAR, FUNDING FOR ANTI-DRUG EFFORTS WILL HAVE DOUBLED SINCE 1989.

I BELIEVE OUR EXPERIENCE OVER THE PAST THREE YEARS HAS SHOWN THAT THE PRESIDENT'S STRATEGY IS A SOUND ONE -- AND THAT, IF WE PURSUE IT WITH UNRELENTING TENACITY, IT WILL ULTIMATELY LEAD TO VICTORY. THIS STRATEGY RECOGNIZES THAT WE MUST FIGHT THE DRUG WAR ON TWO FRONTS -- BOTH THE SUPPLY SIDE AND THE DEMAND SIDE. THIS STRATEGY RECOGNIZES THAT THE WAR CANNOT BE WON WITHOUT VICTORY ON THE DEMAND SIDE. AT BOTTOM, THIS IS A STRUGGLE FOR THE HEARTS AND MINDS OF OUR YOUNG PEOPLE.

AND SO THE STRATEGY CALLS FOR A REDUCTION IN THE DEMAND FOR -- AND THE USE OF -- ILLEGAL DRUGS BY EDUCATING OUR CHILDREN ABOUT DRUGS, BY DEVELOPING EFFECTIVE TREATMENT PROGRAMS FOR ADDICTS, AND BY HOLDING DRUG USERS ACCOUNTABLE FOR THEIR ACTIONS.

NOW AT THE SAME TIME, THE PRESIDENT'S STRATEGY CALLS FOR VIGOROUS ENFORCEMENT EFFORTS TO REDUCE THE SUPPLY OF DRUGS. IT CONTEMPLATES A CONTINUOUS AND UNRELENTING FIGHT ACROSS A BROAD FRONT -- PUTTING AS MUCH PRESSURE AS POSSIBLE ON ALL LEVELS OF DRUG PRODUCTION AND DISTRIBUTION -- EXPLOITING EVERY POTENTIAL VULNERABILITY OF OUR ADVERSARY.

AND SO WE ARE ATTACKING THE DRUG PROBLEM IN THREE THEATERS OF OPERATION:

-- THROUGH AGGRESSIVE DOMESTIC ENFORCEMENT WE ARE ATTACKING WHOLESALE AND RETAIL TRAFFICKERS IN THE UNITED STATES.

-- THROUGH VIGOROUS INTERDICTION EFFORTS WE ARE ATTACKING THE FLOW OF DRUGS INTO THE UNITED STATES AT OUR BORDERS, IN INTERNATIONAL WATERS AND AIRSPACE, AND IN TRANSIT COUNTRIES.

-- AND THROUGH INTERNATIONAL COOPERATIVE EFFORTS OVERSEAS WE ARE SEEKING TO ATTACK THE DRUG SUPPLY AT ITS SOURCE AND DRUG TRAFFICKERS IN THEIR LAIRS.

THERE ARE THOSE WHO DISPARAGE THE NEED FOR VIGOROUS LAW ENFORCEMENT IN FIGHTING DRUGS. BUT I THINK THAT THE PRESIDENT'S

STRATEGY IS EXTREMELY WISE IN CALLING FOR STRONG ACTION TO REDUCE SUPPLY.

IN MY VIEW, STRONG SUPPLY-SIDE ENFORCEMENT EFFORTS ARE INDISPENSABLE TO REDUCING DEMAND. NO COUNTRY HAS BEEN ABLE TO REDUCE DEMAND WITHOUT AGGRESSIVE ACTION AGAINST SUPPLY. LAW ENFORCEMENT DIRECTLY CONTRIBUTES TO DEMAND REDUCTION.

STRONG ENFORCEMENT DEMONSTRATES SOCIETY'S CONDEMNATION OF DRUGS AND THUS SENDS YOUNG PEOPLE THE RIGHT MORAL MESSAGE ABOUT DRUG USE. IT DETERS MANY FROM TRYING DRUGS. IT CAN DIRECTLY REDUCE CONSUMPTION BY MAKING DRUGS MORE EXPENSIVE AND HARDER TO GET. AND IT DIRECTLY REDUCES DEMAND BY DIVERTING ADDICTS INTO DRUG TREATMENT PROGRAMS.

AND SO WE HAVE A SOUND AND BALANCED STRATEGY. AND THE FACT IS THAT, IN PURSUING THIS STRATEGY OVER THE PAST THREE YEARS, AND FOR OCDETF OVER THE PAST DECADE, WE HAVE MADE SUBSTANTIAL AND IMPRESSIVE PROGRESS IN THE WAR ON DRUGS.

OUR GAINS ON THE DEMAND SIDE ARE INDEED HEARTENING. YOU KNOW THAT:

-- OVERALL DRUG USE IS DOWN 50% SINCE 1985.

-- IT IS DOWN 15% SINCE 1988.

-- AND MOST PROMISING OF ALL, THERE HAS BEEN A SHARP DECLINE OF DRUG USE AMONG YOUNG PEOPLE.

-- ADOLESCENT DRUG USE IS DOWN 26%.

-- ADOLESCENT COCAINE USE IS DOWN 63%.

THIS BODES WELL FOR THE FUTURE. PROGRESS ON THE DEMAND REDUCTION FRONT HAS BEEN GREATER AND FASTER THAN MANY SKEPTICS THOUGHT POSSIBLE.

AS IN ANY LONG AND COMPLEX WAR, WE WILL HAVE OCCASIONAL SETBACKS AND PERIODS OF FRUSTRATION. PROGRESS ON THE DEMAND SIDE WILL BECOME SLOWER AS WE ENCOUNTER THE HARD-CORE ADDICT POPULATION. BUT WE CANNOT LET THE NEWS OF THE DAY OBSCURE THE BIG PICTURE -- AND HERE THE BIG PICTURE IS BROAD AND UNMISTAKABLE PROGRESS.

AND LIKEWISE THERE HAS BEEN IMPRESSIVE GAINS ON THE SUPPLY SIDE. IT IS HARDER TO MEASURE PROGRESS ON THE SUPPLY SIDE. AND, IN THE FOG OF WAR, IT IS SOMETIMES HARD TO DISCERN THE SIGNIFICANCE OF DEVELOPMENTS. BUT, AGAIN, I THINK THE BIG PICTURE IS ONE OF CLEAR FORWARD MOVEMENT AND ACHIEVEMENT.

I DON'T HAVE TO TELL YOU HOW MUCH WE HAVE ACCOMPLISHED ON THE DOMESTIC FRONT. OCDETF IS OUR FLAGSHIP PROGRAM.

PERHAPS OUR GREATEST ACHIEVEMENT HAS BEEN THE HONING OF OCDETF INTO THE EXTREMELY EFFECTIVE WEAPON IT HAS BECOME IN ATTACKING MAJOR DRUG TRAFFICKING ORGANIZATIONS. OCDETF WEAVES TOGETHER THE SPECIAL SKILLS AND EXPERIENCE OF 9 FEDERAL AGENCIES

AS WELL AS THE STATE AND LOCAL LAW ENFORCEMENT, AND FOCUSES THEM ON A SINGLE PROBLEM -- DISMANTLING LARGE-SCALE DRUG ENTERPRISES.

THE HALLMARK OF THIS EFFORT HAS BEEN COOPERATION BETWEEN FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT. AND THANKS TO THOSE OF YOU IN THIS ROOM WE HAVE BEEN ABLE TO ACHIEVE AN UNPRECEDENTED COOPERATION.

OCDETF'S PRIMARY STRENGTH IS THE DIVERSITY OF ITS PARTICIPANTS AND ITS FLEXIBLE ORGANIZATIONAL STRUCTURE. ON ANY GIVEN CASE WE CAN BRING TO BEAR AN IMPRESSIVE ARRAY OF SPECIAL SKILLS AND RESOURCES:

- THE STREET SMARTS AND DRUG SPECIFIC EXPERTISE OF DEA
- THE METHODOICAL RACKETEERING -- ENTERPRISE TYPE OF INVESTIGATION PERFECTED BY THE FBI
- THE SPECIAL KNOWLEDGE OF ALIEN AND ETHNIC GROUPS POSSESSED BY INS AND THE BORDER PATROL
- THE DECADES OF EXPERIENCE DEALING WITH TRACKING SMUGGLERS AND INTERDICTION METHODS OF CUSTOMS
- THE SPECIAL MARITIME AND SHIPPING EXPERTISE OF THE COAST GUARD
- THE UNIQUE BATF KNOWLEDGE OF THE WEAPONS TRADE AND VIOLENT GANG ACTIVITY
- THE VITAL LOCAL INTELLIGENCE AND KNOWLEDGE OF THE LOCAL CRIMINAL COMMUNITY POSSESSED BY OUR STATE AND LOCAL COLLEAGUES
- THE ASSET SEIZURE AND MANAGEMENT EXPERTISE AND THE MYRIAD

OF OTHER SERVICES BY THE MARSHALS SERVICE

- LAST, BUT FAR FROM LEAST, THE INSTITUTIONAL EXPERTISE IN FINANCIAL INVESTIGATIONS BY IRS.

THE RECORD ACHIEVED BY OCDEF HAS TRULY BEEN IMPRESSIVE. THERE HAVE BEEN:

- OVER 23,000 CONVICTIONS**
- ABOUT 20,000 PRISON SENTENCES**
- A LIFE SENTENCE METED OUT EVERY 10 DAYS**
- OVER \$2 BILLION IN PROPERTY TAKEN AWAY FROM DRUG TRAFFICKERS.**

IT IS CLEAR THAT, AT AN ACCELERATING PACE, OCDEF IS CUTTING DEEP INTO THE DRUG TRAFFICKING NETWORK WITHIN THE UNITED STATES. OCDEF'S WORK IS PIVOTAL TO OUR OVERALL SUPPLY REDUCTION EFFORT, AND I CONGRATULATE YOU ON THE GREAT PROGRESS YOU HAVE MADE AND KNOW YOU WILL CONTINUE TO MAKE IN THE FUTURE.

OUR INTERDICTION EFFORTS HAVE ALSO BEEN MOVING FORWARD. THESE INTERDICTION EFFORTS LIKEWISE REQUIRE A HIGH DEGREE OF COOPERATION: THE MILITARY, THE COAST GUARD, CUSTOMS, DEA, AND INS, MUST WORK CLOSELY TOGETHER.

WE MUST ALSO WORK WITH FOREIGN COUNTRIES TO TRANSLATE DETECTION AND MONITORING INFORMATION INTO DRUG SEIZURES, FOLLOW-UP INVESTIGATIONS OF TRAFFICKING ORGANIZATIONS, ASSET SEIZURES,

ARRESTS AND PROSECUTIONS.

THESE EFFORTS ARE PAYING BIG DIVIDENDS.

LAST YEAR, COCAINE SEIZURES IN THE SOURCE AND TRANSIT NATIONS BROKE ALL RECORDS, EXCEEDING 200 METRIC TONS. ANOTHER 100 METRIC TONS WERE SEIZED THROUGH OUR DOMESTIC EFFORTS. THAT IS OVER 300 METRIC TONS THAT DIDN'T REACH OUR CITIES AND TOWNS.

NOW, INTERDICTION, IS A HIGHLY DYNAMIC EFFORT. AND LIKE ALL SUCH EFFORTS THERE IS GOING TO BE TRIAL AND ERROR, LEARNING WHAT WORKS AND WHAT DOESN'T WORK, IMPROVING OUR INTELLIGENCE AND OUR TECHNIQUES.

WHILE THERE WILL BE FRUSTRATIONS AND SETBACKS, ONCE AGAIN THE BIG PICTURE IS THAT WE ARE MOVING FORWARD AND BECOMING INCREASINGLY EFFECTIVE.

THE MOST DIFFICULT ASPECT OF THE DRUG WAR IS, IN A SENSE, ITS INTERNATIONAL DIMENSION. AND IN MANY WAYS, THE MOST FRUSTRATING.

IF DRUGS WERE PRODUCED AND DISTRIBUTED WHOLLY WITHIN THE U.S. AND BY DOMESTIC ORGANIZATIONS, THE DRUG WAR WOULD BE MUCH EASIER. WHERE THE UNITED STATES HAS DIRECT CONTROL OVER THE AREAS WHERE DRUGS ARE PRODUCED AND FROM WHICH THEY ARE

DISTRIBUTED, OUR ENFORCEMENT EFFORTS CAN BE DEVASTATINGLY EFFECTIVE.

AND WE HAVE SEEN THIS IN THE GREAT PROGRESS WE HAVE MADE IN DEALING WITH MARIJUANA AND METHAMPHETAMINES. BUT THE TWO GREATEST DRUG THREATS TODAY -- COCAINE AND HEROINE -- ARE PRODUCED AND DISTRIBUTED OVERSEAS. AND THE ORGANIZATIONS THAT ARE RESPONSIBLE FOR THEIR PRODUCTION AND DISTRIBUTION ARE BASED OVERSEAS.

WE RESPECT THE SOVEREIGNTY OF OTHER NATIONS, AND THUS THE SUCCESS OF OUR EFFORTS TO ATTACK SUPPLY ULTIMATELY DEPENDS ON INTERNATIONAL COOPERATION. AND SO, MUCH OF OUR EFFORTS IN RECENT YEARS HAS BEEN PUTTING INTO PLACE THE BUILDING BLOCKS NECESSARY FOR SUCCESSFUL, COORDINATED INTERNATIONAL ACTION AGAINST DRUG TRAFFICKERS. THIS HAS MEANT PUTTING INTO PLACE MULTI-LATERAL AND BI-LATERAL ENFORCEMENT STRUCTURES AND LEGAL FRAMEWORKS. IT HAS MEANT PUTTING IN PLACE INTELLIGENCE AND INTELLIGENCE-SHARING MECHANISMS. IT HAS MEANT ENCOURAGING OTHER COUNTRIES TO REFORM THEIR OWN DOMESTIC LAW TO BE MORE EFFECTIVE IN COMBATTING DRUG TRAFFICKING.

ONCE AGAIN, THE PRESIDENT HAS DONE AN EXCEPTIONAL JOB IN MOBILIZING THE INTERNATIONAL COMMUNITY. THIS IS NO EASY TASK. IT CAN'T BE DONE OVERNIGHT. BUT, SURELY AND STEADILY, THE BUILDING BLOCKS NECESSARY FOR EFFECTIVE INTERNATIONAL ACTION HAVE

BEEN PUT INTO PLACE.

ONE OF THE MOST IMPORTANT OF THOSE BUILDING BLOCKS IS THE U.N. VIENNA CONVENTION WHICH BECAME EFFECTIVE IN NOVEMBER OF 1990. THIS TREATY IS A MILESTONE IN THE INTERNATIONAL EFFORT TO FIGHT DRUG TRAFFICKERS. IT PROVIDES THE INTERNATIONAL FRAMEWORK FOR COMBATING DRUG TRAFFICKING BY REQUIRING SIGNATORIES TO PASS DOMESTIC LAWS PROVIDING FOR DRUG ASSET REMOVAL, THE CONTROL OF ESSENTIAL AND PRECURSOR CHEMICALS, AND DRUG CONSPIRACY LAWS THAT ALLOW DRUG KINGPINS, NOT JUST COURIERS, TO BE PROSECUTED.

SINCE DECEMBER 1988, 64 NATIONS, INCLUDING THE EUROPEAN COMMUNITY, HAVE RATIFIED THE CONVENTION.

ANOTHER IMPORTANT MULTILATERAL INITIATIVES THE CREATION OF THE FINANCIAL ACTION TASK FORCE. THIS GROUP WAS CONVENED BY THE 1989 G-7 ECONOMIC SUMMIT. THE PRIMARY OBJECTIVE OF THE TASK FORCE HAS BEEN TO DEVISE WAYS TO PREVENT TRAFFICKERS FROM USING FINANCIAL INSTITUTIONS TO LAUNDER THEIR ILLEGAL DRUG MONEY.

AS IMPORTANT AS MONEY IS TO TRAFFICKERS, CERTAIN CHEMICALS ARE ALSO NECESSARY TO PROCESS RAW MATERIALS INTO MARKETABLE DRUGS, SUCH AS COCAINE OR HEROIN.

IN 1988, WITH THE PASSAGE OF THE CHEMICAL DIVISION AND TRAFFICKING ACT, THE UNITED STATES BECAME THE FIRST MAJOR

CHEMICAL-PRODUCING NATION TO ADOPT MANDATORY CONTROLS OVER
PRECURSOR AND ESSENTIAL CHEMICALS USED IN THE ILLEGAL PRODUCTION
OF DRUGS.

FROM 1989 TO 1990, WE SAW A 50% DROP IN THE SHIPMENT OF
CHEMICALS USED IN THE MANUFACTURE OF COCAINE FROM THE UNITED
STATES TO LATIN AMERICA.

BUT OUR LAWS DO LITTLE GOOD IF EUROPEAN AND OTHER CHEMICAL
MANUFACTURERS, SUPPLIERS, AND BROKERS SIMPLY PICK UP THE SLACK.
SO WE HAVE PUSHED TO ESTABLISH THE CHEMICAL ACTION TASK FORCE TO
ENCOURAGE AN EFFECTIVE INTERNATIONAL CHEMICAL CONTROL PROGRAM.

AGAIN, PROGRESS IS BEING MADE. THE EUROPEAN COMMUNITY HAS
PASSED A REGULATION REQUIRING ALL MEMBER COUNTRIES TO ESTABLISH A
BASIC SYSTEM OF CHEMICAL EXPORT CONTROL. IN APRIL OF THIS YEAR,
TEN ADDITIONAL CHEMICALS WERE ADDED TO THE CONTROL LIST OF THE
U.N. CONVENTION -- AT THE URGING, PRIMARILY, OF THE UNITED
STATES.

WE HAVE ALSO WORKED BILATERALLY WITH THOSE NATIONS AT THE
HEART OF THE DRUG TRADE TO ELEVATE THEIR COUNTER-NARCOTICS
EFFORTS. THE RECENT DRUG SUMMIT HERE IN SAN ANTONIO WAS AN
HISTORIC EVENT THAT FURTHER SOLIDIFIED INTERNATIONAL EFFORTS
AGAINST OUR COMMON GLOBAL ENEMY -- DRUGS AND THEIR TRAFFICKERS.

AS DRUG CONSUMPTION BECOMES NOT JUST A NORTH AMERICAN PROBLEM, BUT A GLOBAL ONE, WE CAN BE PROUD OF THE LEADERSHIP ROLE PLAYED BY THE U.S. IN MOBILIZING THE INTERNATIONAL COMMUNITY. AS THESE INTERNATIONAL BUILDING BLOCKS ARE PUT IN PLACE, WE ARE STARTING TO SEE SIGNS THAT THEY ARE TAKING HOLD AND THAT THEY ARE HAVING AN IMPACT.

TAKE THE COLOMBIAN COCAINE KINGPINS, FOR EXAMPLE. FIVE YEARS AGO, THEY SEEMED INVINCIBLE. TODAY, MANY OF THEM HAVE BEEN TOPPLED; THEY ARE EITHER DEAD OR IN JAIL -- OR ON THE RUN.

CARLOS LEDER IS SERVING LIFE IN PRISON. JOSE RODRIGUEZ GACHA IS DEAD. MANUEL NORIEGA IS CONVICTED AND SENTENCED TO 40 YEARS IN PRISON. THE MEDELLIN CARTEL HAS BEEN DECIMATED. AND THE CALI CARTEL IS COMING INCREASINGLY UNDER PRESSURE.

WITH THE TOP MEDELLIN CARTEL REELING, OUR CURRENT EFFORTS ARE FOCUSED ON THE CALI CARTEL. IN NOVEMBER AND DECEMBER OF LAST YEAR, THE COLOMBIAN NATIONAL POLICE CONDUCTED THE FIRST RAIDS EVER ON THE CARTEL IN CALI ITSELF. IMPORTANT FINANCIAL RECORDS WERE SEIZED AND TRAFFICKER BANK ACCOUNTS IN COLOMBIA, MIAMI, AND LONDON WERE FROZEN. AND IN APRIL, THE COLOMBIAN NATIONAL POLICE ARRESTED IVAN URDINOLA, ONE OF THE MOST VIOLENT LEADERS OF THE CALI CARTEL.

SINCE MARCH, WITH OUR ASSISTANCE, BOLIVIA HAS MOUNTED AN

AGGRESSIVE ENFORCEMENT OPERATION CALLED GHOST ZONE, DESIGNED TO SHUT OFF THE CALI CARTEL'S ACCESS TO THE CHAPARE REGION, THE SOURCE OF ONE-THIRD OF THE WORLD'S COCAINE.

WE ARE MATCHING THOSE COOPERATIVE EFFORTS ABROAD WITH A FULL-COURT PRESS AT HOME. LAST NOVEMBER, WE DESTROYED A MAJOR CALI DISTRIBUTION ORGANIZATION IN NEW YORK CITY, ARRESTING THE HEAD OF THE NEW YORK BRANCH, AND OVER 100 MEMBERS OF THAT ORGANIZATION. MORE THAN \$20 MILLION IN CASH AND ASSETS WERE SEIZED IN THIS RAID AND OVER 14 METRIC TONS OF COCAINE WERE TAKEN OFF THE STREETS.

IN DECEMBER, DEA AND U.S. CUSTOMS SEIZED 15 TONS OF CALI COCAINE HIDDEN IN CEMENT FENCE POSTS IN MIAMI AND TEXAS.

AND IN APRIL, AS A FOLLOW-UP TO THAT INVESTIGATION, A MAJOR CALI CARTEL LEASER WAS ARRESTED IN MIAMI WHEN DEA AND CUSTOMS SEIZED 7 1/2 TONS OF CALI COCAINE.

THESE COLLECTIVE EFFORTS DISRUPTED THE CALI CARTEL. AND BOTH OF THESE EFFORTS AS WELL AS OUR GROWING SUCCESSES AT INTERDICTION AND DOMESTIC ENFORCEMENT HAVE RESULTED IN ONLY THE SECOND RISE EVER IN THE PRICE OF COCAINE IN THE U.S. IN THE SECOND QUARTER OF THIS YEAR, THE WHOLESALE PRICE OF COCAINE IN OUR FOUR MAJOR GATEWAY CITIES ROSE BY AS MUCH AS 50 PERCENT. BY SUSTAINING ALL THESE EFFORTS PURSUANT TO OUR STRATEGY WE CAN

DRASTICALLY REDUCE THE AVAILABILITY OF COCAINE IN THE U.S.

AS I HAVE TRIED TO MAKE CLEAR, WE HAVE ACCOMPLISHED A LOT AND REAL PROGRESS IS BEING MADE. THROUGH OCADETF WE HAVE ASSEMBLED A FIRST-RATE LAW ENFORCEMENT TEAM. DEMAND IS FALLING. I FIRMLY BELIEVE THAT, IN THIS WAR ON DRUGS THAT WE ARE WAGING, THE BEST IS YET TO COME.

WE CANNOT FALL PREY TO THE DEFEATIST ATTITUDE OF SOME OF OUR CRITICS. A PERVASIVE AND DANGEROUS DRUG CULTURE IN THE UNITED STATES IS NOT INEVITABLE. SEEN IN PROPER PERSPECTIVE, THE LAST TWENTY-FIVE YEARS ARE AN ABERRATION IN OUR NATION'S HISTORY.

THIS IS A WAR THAT CAN BE WON. IT WILL BE WON.

ONCE AGAIN, I WANT TO THANK YOU FOR THE TREMENDOUS WORK YOU ARE DOING. YOU HAVE MY GRATITUDE AND APPRECIATION -- AND MY HIGHEST EXPECTATIONS FOR THE FUTURE.

GOD BLESS YOU ALL.

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Section: A

AG Barr blasts critics of drug war

KELLEY SHANNON

SAN ANTONIO

SAN ANTONIO -- Attorney General William P. Barr Wednesday denounced critics of America's drug war, saying the drug problem -- glamorized by Hollywood -- has existed 25 years and requires more than a quick fix.

"We didn't reach this sad state of affairs overnight. It took us at least 25 years, since the mid-60s, to dig ourselves into this hole," Barr told the Organized Crime Drug Enforcement Task Force.

The 10-year-old task force consists of representatives of nine federal agencies. Its national conference is this week in San Antonio.

"You are the leaders and the warriors in our nation's greatest struggle -- the war on drugs," Barr said in a sort of pep talk to the group.

Barr said there have been accomplishments in the drug war, including a 50 percent decline in overall drug use since 1985 and the breakdown of the Medellin cocaine cartel of Colombia.

But, he said, work remains to be done.

More than 375,000 babies are born each year with drug-related problems, and over the next 10 years the nation will spend about \$100 billion on medical care and education to treat children exposed to cocaine, Barr said.

As drug use increased over the years, Barr said, "many influential sectors of our society took an extremely permissive attitude toward drug use."

"And well into the '80s the movie industry and the popular culture glamorized drug use," Barr said. "Its permissiveness had a devastating impact, and by the early 1980s there were over 25 million users of illegal drugs in this country."

Today, Barr said, some people who once were permissive toward drugs now "stand on the sidelines holding a stopwatch, asking why the war on drugs isn't over yet."

Barr said the Bush administration is continuing to battle drugs by attacking supply and demand and through improving foreign cooperation. He said the two greatest drug threats -- cocaine and heroin -- are produced by foreign drug rings.

---- **Index References** ----

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NewsRoom



Department of Justice

REMARKS BY

WILLIAM P. BARR

ATTORNEY GENERAL OF THE UNITED STATES

TO

A SEXUAL ASSAULT CONFERENCE

NEW YORK, NEW YORK

AUGUST 27, 1992

THANK YOU. AS ATTORNEY GENERAL, SEXUAL VIOLENCE HAS BEEN A PARTICULAR CONCERN OF MINE. SHORT OF MURDER, I DON'T THINK THERE IS A MORE HEINOUS OFFENSE. AS CHIEF JUSTICE BURGER STATED, RAPE IS NOT A MERE PHYSICAL ATTACK; IT IS DESTRUCTIVE OF THE HUMAN PERSONALITY. YOU ALL KNOW OF THE PSYCHOLOGICAL WOUNDS INFLICTED BY RAPISTS AND MOLESTERS.

NOW WHAT IS ESPECIALLY TRAGIC ABOUT SEXUAL VIOLENCE IS THAT FAR TOO MANY TIMES VICTIMS OF SEXUAL VIOLENCE SUFFER IN SILENCE. WE ALL KNOW THAT SEXUAL OFFENSES ARE THE MOST UNDERREPORTED CRIMES THERE ARE. AND ONE OF THE REASONS THAT SEXUAL OFFENSES ARE UNDERREPORTED IS BECAUSE OUR CRIMINAL JUSTICE SYSTEM ALL TOO FREQUENTLY DOES NOT ACT TO PROTECT THESE VICTIMS OF CRIME, BUT IN FACT, PROCEEDS IN A WAY THAT EXACERBATES AND ADDS TO THE MISERY OF THE VICTIM.

I'VE SAID THAT OUR CRIMINAL JUSTICE SYSTEM REALLY HAS TO REMEMBER THE FUNDAMENTAL FUNCTIONS IT HAS TO CARRY OUT. FIRST, IT HAS TO BRING CRIMINALS TO JUSTICE. AND SECOND, IT HAS TO BRING JUSTICE TO THE VICTIMS. THESE DAYS I DON'T THINK THAT OUR CRIMINAL JUSTICE SYSTEM, AT ANY LEVEL, IS PERFORMING THOSE FUNCTIONS AS EFFECTIVELY AS IT SHOULD.

NOW IN MY VIEW, WE ARE IN DIRE NEED OF FUNDAMENTAL REFORM OF OUR CRIMINAL JUSTICE SYSTEM, IN THE WAY IT HANDLES SEXUAL OFFENSES.

AND I THINK THE TIME TO ACT HAS COME.

SEXUAL VIOLENCE IN OUR SOCIETY, AS ALL OF YOU KNOW, HAS REACHED EPIDEMIC PROPORTIONS. IT IS A DIFFICULT CRIME TO CALIBRATE PRECISELY BECAUSE IT IS SO UNDERREPORTED. BUT NO MATTER HOW YOU MEASURE IT, WE KNOW IT IS AT AN INTOLERABLY HIGH LEVEL, AND WHAT'S WORSE, IT IS ON THE INCREASE.

NOW, ALL OF YOU KNOW THAT THE FEDERAL GOVERNMENT HAS A VERY LIMITED ROLE TO PLAY, WHEN ALL IS SAID AND DONE IN THE AREA OF SEXUAL VIOLENCE. 98% OF THESE CRIMES, OR MORE, FALL WITHIN STATE AND LOCAL RESPONSIBILITIES. NEVERTHELESS, THIS ADMINISTRATION BELIEVES THAT THE FEDERAL GOVERNMENT DOES HAVE A MAJOR ROLE TO PLAY IN THE WAY OF LEADERSHIP AND ASSISTANCE. NOW, NOWHERE HAS THE LEADERSHIP I MENTIONED BEEN AS STRONG AS IN VICTIMS RIGHTS. I THINK WE HAVE HAD A DECADE OF ACHIEVEMENT IN VICTIMS RIGHTS. IN 1981, PRESIDENT REAGAN ESTABLISHED THE TASK FORCE ON VICTIMS OF CRIMES, WHICH MADE 68 SPECIFIC RECOMMENDATIONS. OVER THE PAST DECADE, MANY OF THOSE RECOMMENDATIONS HAVE BEEN ADOPTED IN LANDMARK LEGISLATION.

JOHN MENTIONED THE CREATION OF THE CRIME VICTIMS FUND AND THE FACT THAT WE TAKE \$150 MILLION OFF THE TOP OF THE FINES COLLECTED FROM FEDERAL OFFENDERS AND WE GIVE THEM TO THE STATE AND LOCAL GOVERNMENTS. PRIORITY IS GIVEN TO PROGRAMS FOR VICTIMS OF SEXUAL VIOLENCE. AND ONE OF THE THINGS WE WANT TO DO IS LIFT THAT CAP OF

\$150 MILLION AND PUT MORE RESOURCES INTO STATE PROGRAMS. WHENEVER I GO INTO A CITY AROUND THIS COUNTRY I TRY TO VISIT ONE OF THE PROGRAMS WE ARE FUNDING, WHETHER IT IS A RAPE CRISIS CENTER OR A PROSECUTION BASED PROGRAM DEALING WITH CHILD ABUSE OR OTHER KINDS OF SEXUAL OFFENSES. THESE PROGRAMS HAVE BEEN EXTREMELY VALUABLE. THE PEOPLE WHO SERVE IN THEM HAVE BEEN EXTREMELY WORTHWHILE AND EFFECTIVE. AND WE HAVE TO GIVE THEM MORE SUPPORT. JOHN ALSO MENTIONED THE CREATION OF THE OFFICE FOR VICTIMS OF CRIME AND THEIR INVOLVEMENT.

WE ARE COMMITTED IN THIS ADMINISTRATION, AND I AS ATTORNEY GENERAL, TO EXPAND THE ASSISTANCE TO VICTIMS OF SEXUAL VIOLENCE. BUT, I THINK WE HAVE TO DO MORE IN FIGHTING SEXUAL VIOLENCE. WE HAVE TO DO MORE THAN INCREASING ASSISTANCE TO VICTIMS. ONE THING WE HAVE TO DO IS PREVENT SEXUAL VIOLENCE -- TO STOP AND REDUCE THE NUMBER OF VICTIMS IN THE FUTURE. AND I THINK PART OF THIS HAS TO BE STRENGTHENING AND IMPROVING THE WHOLE CRIMINAL JUSTICE SYSTEM SO IT DEALS MORE EFFECTIVELY WITH RAPE AND CRIME AND SEXUAL VIOLENCE.

LOOK AT WHAT THE CRIMINAL JUSTICE SYSTEM HOLDS IN STORE -- FOR EXAMPLE, FOR A WOMAN WHO IS RAPED AND COMES FORWARD TO IDENTIFY HER ATTACKER. FIRST, THERE IS THE VIOLENT ATTACKER. THE VIOLENT ATTACKER IS MOST OFTEN RELEASED FROM CUSTODY PRIOR TO TRIAL, EVEN IF THAT PERSON MAY POSE AS A DANGER TO SOCIETY AS A WHOLE. AND THEN WHEN THAT CASE DOES COME TO TRIAL, IT OFTEN BECOMES THE VICTIM WHO SEEMS TO BE FACING PROSECUTION. DEFENSE LAWYERS DELVE INTO

EVERY PRIVATE ASPECT OF A WOMAN'S PAST, AND TRY TO MAKE IT APPEAR THAT IN SOME WAY SHE DESERVED IT OR IN SOME WAY ASKED FOR IT. AT THE SAME TIME IMPORTANT, INFORMATION ABOUT THE DEFENDANT'S PAST CONDUCT IS WITHHELD FROM THE JURY. AND THEN IF THE RAPIST IS CONVICTED, THE SENTENCE IS NOTHING MORE THAN A SLAP ON THE WRIST. THE FACT OF THE MATTER IS, THAT ALL TOO MANY SEXUAL OFFENDERS ARE NOT GIVEN PRISON TIME AT ALL.

IN FACT, ONLY 33% OF THOSE ARRESTED FOR RAPE IN THIS COUNTRY ARE SENTENCED. EVEN WHEN THE OFFENDERS ARE SENT TO PRISON, THE RAPIST GENERALLY IN THIS COUNTRY ONLY SERVES A FRACTION OF THE SENTENCE. THE AVERAGE SENTENCE FOR RAPE IS 8 YEARS. THE AVERAGE TIME SERVED FOR RAPE IN THIS COUNTRY IS 3 YEARS. THAT MEANS IN MANY STATES INDIVIDUALS ARE SERVING 2 AND SOMETIMES LESS THAN 2 YEARS FOR SERIOUS SEX CRIMES.

NOW, ANOTHER DISTURBING FEATURE OF OUR SYSTEM IS THAT TIME IS GOING DOWN. NOT GOING UP. I THINK IF WE ARE GOING TO MAKE SERIOUS HEADWAY IN DEALING WITH SEXUAL VIOLENCE WE HAVE TO STOP THIS REVOLVING DOOR. RAPISTS ARE HIGHLY RECIDIVISTIC. IT IS PROBABLY THE MOST RECIDIVISTIC CRIME THAT IS COMMITTED. THE AVERAGE RAPIST IN CUSTODY, AS YOU WELL KNOW, IS NOT A NOVICE. THE AVERAGE RAPIST IN CUSTODY HAS ALREADY BEEN CONVICTED OF 3 OR MORE RAPES. SO WE ARE DEALING WITH A REVOLVING DOOR THAT IS THREATENING OUR SOCIETY. I DON'T THINK WE ARE GOING TO MAKE MUCH PROGRESS REDUCING VICTIMIZATION UNLESS WE DEAL WITH THE REVOLVING DOOR.

THIS ADMINISTRATION, IN THAT REGARD, IS SEEKING TO REFORM THE CURRENT SYSTEM. WE HAVE A COMPREHENSIVE CRIME BILL (S.2305) THAT DEALS WITH VIOLENT CRIME ACROSS THE BOARD. AND ONE OF THE TITLES IN THE CRIME BILL, TITLE VII, IS ENTITLED SEXUAL VIOLENCE, CHILD ABUSE, AND VICTIMS RIGHTS. IT CONTAINS MANY TOUGH NEW PROVISIONS THAT ADDRESS SEXUAL ASSAULT. UNFORTUNATELY, THIS COMPREHENSIVE PROPOSAL HAS BEEN BOGGED DOWN IN CONGRESS. WHILE THE HOUSE OF REPRESENTATIVES PASSED MOST OF OUR SEXUAL VIOLENCE AND VICTIMS RIGHTS PROPOSALS LAST YEAR IN ITS ORIGINAL CRIME BILL, THE CONFERENCE REPORT ON THE HOUSE AND SENATE BILLS STRIPPED OUT VIRTUALLY ALL OF THE SEXUAL ASSAULT PROVISIONS.

AND SO I AM PLEASED THAT CONGRESSWOMAN MOLINARI, ALONG WITH SENATOR DOLE, HAVE STEPPED TO THE FLOOR TO BREAK THIS LOGJAM ON SEXUAL VIOLENCE. SHE AND SENATOR DOLE ARE INTRODUCING, A TOUGH, WIDE-RANGING BILL THAT FOCUSES SPECIFICALLY ON SEXUAL VIOLENCE AGAINST WOMEN. IT TAKES GOOD PROVISIONS OF THE ADMINISTRATION'S ANTI-CRIME LEGISLATION ALONG WITH OTHER PROPOSALS THAT HAVE BEEN MADE IN CONGRESS, MANY OF WHICH HAVE ALREADY BEEN PASSED BY THE HOUSE OR THE SENATE. IT IS A VERY TOUGH PIECE OF LEGISLATION. AND ALL IN ALL, I THINK IT IS EXACTLY WHAT WE NEED TO PURSUE TODAY. I APPLAUD HER IN HER LEADERSHIP IN THIS AREA. I THINK HER BILL WILL DO EXACTLY WHAT HAS TO BE DONE TO OUR CRIMINAL JUSTICE SYSTEM. IT WILL HELP BRING SEXUAL OFFENDERS TO JUSTICE. AND IT WILL HELP BRING JUSTICE TO THE VICTIMS OF SEXUAL OFFENSES.

SHE HAS STRONG PROVISIONS FOR PRE-TRIAL DETENTION IN HER BILL. SHE PROVIDES TOUGH PENALTIES FOR REPEAT OFFENDERS -- RECIDIVISTS -- DOUBLING THE SENTENCES THEY COULD SERVE IN THE FEDERAL SYSTEM. THE BILL ALSO INCLUDES OTHER PROVISIONS TO INCREASE THE PENALTIES FOR SEX OFFENDERS.

I THINK THAT ONLY THROUGH INCREASED PENALTIES WILL WE BE ABLE TO DETER THOSE WHO ARE DETERABLE AND INCAPACITATE THOSE WHO ARE NOT DETERABLE. THE BILL ALSO DEALS INTELLIGENTLY AND EFFECTIVELY WITH THE PROBLEM OF HIV, AND THE FRIGHTENING SPECTER THAT IT RAISES EACH TIME THERE IS A SEXUAL ASSAULT. THE BILL WOULD ALLOW VICTIMS TO REQUIRE THAT THEIR ATTACKERS BE TESTED FOR HIV PROMPTLY AFTER APPREHENSION. THIS OF COURSE IS VITAL -- NOT ONLY FOR THE PEACE OF MIND FOR THE VICTIM, BUT TO ALSO MAKE SURE THE VICTIM GETS PROPER MEDICAL ATTENTION IF IN FACT THERE HAS BEEN AN INFECTION.

THE BILL ALSO PROVIDES A VARIETY OF PROCEDURAL AND EVIDENTIARY REFORMS. IT WILL ENHANCE THE TRUTH FINDING ASPECT OF TRIALS AND AT THE SAME TIME INCREASE THE RIGHTS OF VICTIMS. SPECIFICALLY, IT WILL ALLOW THE JURY TO KNOW THE PRIOR SEXUAL OFFENSES OF THE DEFENDANT. THE BILL WILL EXTEND AND STRENGTHEN THE RAPE SHIELD LAW, SO THAT THE PRIVATE LIFE OF THE VICTIM WILL NOT BE PARADED BEFORE THE JURY. IT ALSO PROVIDES STANDARDS OF ATTORNEY CONDUCT TO PROTECT THE VICTIM FROM BEING ABUSED AT TRIAL. IT GIVES THE VICTIM THE SAME RIGHT TO ADDRESS THE COURT IN SENTENCING THAT THE DEFENDANT ENJOYS.

I THINK THESE AND OTHER REFORMS IN THE MOLINARI BILL WILL GREATLY IMPROVE THE CRIMINAL JUSTICE SYSTEM. IT WILL GREATLY ADVANCE THE RIGHTS OF VICTIMS. AND IT WILL MAKE RAPE VICTIMS AND THE VICTIMS OF SEXUAL ASSAULT MORE WILLING TO IDENTIFY THEIR ATTACKERS AND HELP BRING THOSE ATTACKERS TO JUSTICE.

SO I COMMEND HER FOR THIS GREAT LEGISLATION. IT'S TOUGH, BUT I THINK THE TIME HAS COME TO BE TOUGH. IT'S FAIR, IT'S EFFECTIVE, AND ITS'S LONG OVERDUE.

NOW IN ADDITION TO WHAT WE HAVE TO DO AT THE FEDERAL LEVEL, SHOWING THIS LEADERSHIP MAKING THESE CHANGES WHICH IN A SENSE WILL BECOME A PARAGON FOR THE REST OF THE COUNTRY, WE ALSO HAVE TO PROMOTE REFORM AT THE STATE LEVEL, TOO. AND MOST OF THESE CASES COME UP AT THE STATE LEVEL. THAT IS WHY WE HAVE PROPOSED A REFORM FOR ALL STATE CRIMINAL JUSTICE SYSTEMS. AS JOHN SAID, THIS DOES COVER A NUMBER OF VICTIMS ISSUES RATIFIED BY NOVA, NATIONAL ORGANIZATION FOR VICTIMS ASSISTANCE PASSED LAST WEEK AMENDING THIS REPORT. IT EMBODIES A LOT OF PROVISIONS DEALING WITH SEXUAL VIOLENCE, SOME OF WHICH ARE INCLUDED IN SUSAN MOLINARI'S BILL. I HOPE YOU GET TIME TO READ THESE.

SO WITH THAT, LET ME CLOSE. I WANT TO AGAIN EXPRESS MY APPRECIATION TO YOU FOR HOLDING THIS FORUM, AND ALSO FOR THE OPPORTUNITY I HAVE TO SPEAK WITH YOU ON THIS OCCASION.
THANK YOU.



Department of Justice

REMARKS BY

ATTORNEY GENERAL WILLIAM P. BARR

TO

NATIONAL ORGANIZATION FOR VICTIM ASSISTANCE

KANSAS CITY, MISSOURI

AUGUST 18, 1992

THANK YOU, BRENDA MEISTER, FOR THAT INTRODUCTION. IT IS AN HONOR FOR ME TO JOIN YOU TODAY. IT IS GOOD TO SEE OLD FRIENDS AND MAKE NEW ONES. AS LONG AS I'M THE ATTORNEY GENERAL, BRENDA, YOU'RE GOING TO BE MY STRONG ARM ON VICTIMS MATTERS.

SINCE ITS INCEPTION IN 1975, NOVA HAS BEEN IN THE FOREFRONT OF THE BATTLE FOR VICTIMS' RIGHTS. IN MY VIEW, AND I SAY THIS SINCERELY, NOTHING IS MORE IMPORTANT TO OUR CRIMINAL JUSTICE SYSTEM THAN THE WORK YOU ARE DOING.

WHENEVER I GO TO A CITY, FOR A LAW ENFORCEMENT EVENT OR SPEECH, IN ADDITION TO VISITING THE OFFICES OF THE ENFORCEMENT AGENCIES AND PROSECUTORS, I TRY TO MAKE IT A POINT TO VISIT A VICTIMS-RELATED PROGRAM.

AND SO I HAVE SEEN FIRST-HAND THE WORK OF THOSE OF YOU INVOLVED IN:

- RAPE CRISIS PROGRAMS
- POLICE AND PROSECUTOR-BASED SERVICE AGENCIES
- DOMESTIC VIOLENCE SHELTERS
- PROSECUTOR-BASED CHILD ABUSE PROGRAMS, AND MANY OTHER AREAS.

THESE VISITS REFLECT MY VIEW THAT VICTIMS' RIGHTS MUST BE AN INTEGRAL PART OF THE CRIMINAL JUSTICE SYSTEM. THEY HAVE ALSO GIVEN

ME THE CHANCE TO SEE THE WONDERFUL DEDICATION, SELFLESSNESS, AND CARING OF THE MEN AND WOMEN WHO ARE SERVING VICTIMS AND CARRYING ON THE FIGHT FOR VICTIMS' RIGHTS. AND FROM THE BOTTOM OF MY HEART, I WANT TO THANK YOU FOR THE TREMENDOUS WORK THAT YOU DO. GOD BLESS YOU.

NOW THIS WEEK'S CONFERENCE IS PACKED WITH SEMINARS, MEETINGS, AND TRAINING SESSIONS.

- YOU WILL SHARE INFORMATION AND EXPERIENCE;
- YOU WILL DEVISE STRATEGIES AND DEVELOP PROGRAMS TO PROVIDE SERVICES FOR VICTIMS;
- YOU WILL HELP TRAIN SERVICE PROVIDERS TO PROPERLY ADDRESS THE NEEDS AND CONCERNS OF VICTIMS.

ALL OF THIS IS VERY IMPORTANT. BUT PERHAPS MORE IMPORTANT THAN THE SPECIFIC MATERIAL YOU'LL BE COVERING HERE IS THE IMPACT THAT YOU ARE HAVING ON THE REST OF THE NATION. YOU ARE NOT JUST HELPING VICTIMS AND THOSE WHO ASSIST THEM. YOU ARE ALSO CHANGING THE WAY AMERICANS THINK ABOUT CRIME AND THE CRIMINAL JUSTICE SYSTEM.

I DON'T THINK THERE IS ANYTHING MORE IMPORTANT OR FUNDAMENTAL GOING ON IN THE COUNTRY NOW THAN THE "VICTIMS' RIGHTS MOVEMENT," AND HOW IT IS AFFECTING THE WAY WE THINK ABOUT THE CRIMINAL JUSTICE SYSTEM. THIS MOVEMENT HAS BECOME THE SPEARHEAD FOR RESTORING OUR CRIMINAL JUSTICE SYSTEM TO ITS PROPER BALANCE. THIS MOVEMENT IS

HELPING TO BRING JUSTICE BACK INTO THE CRIMINAL JUSTICE SYSTEM.

THAT IS WHAT I WANT TO TALK ABOUT TODAY: BRINGING JUSTICE BACK INTO THE CRIMINAL JUSTICE SYSTEM. I DON'T HAVE TO TELL YOU THAT IN THE 1960'S AND 1970'S OUR CRIMINAL JUSTICE SYSTEM GOT SERIOUSLY OUT OF KILTER. IT WASN'T JUST BROKEN; IT WAS ALMOST DYSFUNCTIONAL. IT HAD LOST SIGHT OF ITS PURPOSE. IT WASN'T PROTECTING SOCIETY. ALL ITS SOLICITUDE -- IT SEEMED -- WAS RESERVED FOR THE CRIMINAL.

WELL, EFFORTS TO REFORM THE CRIMINAL JUSTICE SYSTEM STARTED TO TAKE HOLD BY 1980. IT IS UNDENIABLE THAT OVER THE PAST 12 YEARS WE HAVE MADE GREAT PROGRESS IN REFORMING THE CRIMINAL JUSTICE SYSTEM. THIS PROGRESS HAS BEEN PARTICULARLY EVIDENT AT THE FEDERAL LEVEL.

BUT, DESPITE THE PROGRESS, WE ARE NOT THERE YET. MUCH MORE REMAINS TO BE DONE.

THE CRIMINAL JUSTICE SYSTEM IN OUR COUNTRY -- PARTICULARLY AT THE STATE LEVEL -- IS STILL FUNDAMENTALLY BROKEN. IT IS NOT PERFORMING ITS BASIC FUNCTIONS. WE MUST CONTINUE TO FIGHT -- INDEED, WE MUST ESCALATE THE FIGHT -- TO RESTORE JUSTICE TO OUR CRIMINAL JUSTICE SYSTEM.

ONE WAY TO LOOK AT OUR CRIMINAL JUSTICE SYSTEM IS TO VIEW IT AS HAVING TWO BASIC FUNCTIONS:

FIRST, BRINGING CRIMINALS TO JUSTICE.

SECOND, BRINGING JUSTICE TO THE VICTIM.

IN MY VIEW, OUR SYSTEM IS STILL FAILING TO PERFORM EITHER OF THESE BASIC FUNCTIONS ADEQUATELY.

FIRST, LET ME TALK ABOUT "BRINGING JUSTICE TO THE VICTIM." THAT WAS ONE OF THE ORIGINAL PURPOSES OF THE CRIMINAL JUSTICE SYSTEM.

REMEMBER THAT ORIGINALLY JUSTICE WAS A PRIVATE MATTER. IN EARLY SOCIETIES, INDIVIDUALS PURSUED JUSTICE PRIVATELY. THE ANGLO-SAXONS HAD THE "BLOOD-FEUD." WHEN AN INDIVIDUAL WAS HARMED, HIS FAMILY WOULD GO AFTER THE OFFENDER TO EXACT PUNISHMENT. IF A MAN'S CHILD WAS MURDERED, THE MAN WOULD HUNT DOWN THE PERPETRATOR AND EXACT RETRIBUTION.

ACTUALLY, RETRIBUTION HAS SOMEWHAT OF A BAD NAME THESE DAYS, BUT I THINK IT ULTIMATELY STANDS AT THE HEART OF WHAT JUSTICE , AT LEAST IN THE CRIMINAL SYSTEM, IS ALL ABOUT. RETRIBUTION STANDS AT THE HEART OF JUSTICE. WE SHOULD NOT FORGET THAT JUSTICE IS DONE WHEN PEOPLE GET WHAT THEY DESERVE. THE VIOLENT CRIMINAL SHOULD GET WHAT HE DESERVES. THE VICTIM AND SURVIVORS SHOULD GET WHAT THEY DESERVE.

THE DESIRE FOR RETRIBUTIVE JUSTICE IS HARD-WIRED INTO HUMAN BEINGS. IT IS NOT A BASE INSTINCT. IT IS A NOBLE ONE -- THIS DEEP SENSE THAT WHEN SOMEONE VIOLATES THE LAW AND HURTS ANOTHER, THE SCALES MUST BE RIGHTED BY IMPOSING SOME PUNISHMENT ON THE WRONGDOER. THIS SENSE IS ULTIMATELY THE FOUNDATION OF ALL SOCIAL ORDER.

SO, THE SYSTEM OF PRIVATE JUSTICE SOUGHT TO ACHIEVE RETRIBUTION, DETERRENCE, AND FREQUENTLY A MEASURE OF RESTITUTION.

WELL, THERE WERE SOME PROBLEMS WITH THE SYSTEM OF PRIVATE JUSTICE. FREQUENTLY, THE WRONG PERSON WAS PUNISHED. AND SOMETIMES PUNISHMENTS IMPOSED ON THE RIGHT PERSON WERE CRUELLY DISPROPORTIONATE TO THE OFFENSE. AND FREQUENTLY, THE VICTIMS AND SURVIVORS WERE TOO WEAK TO ACHIEVE JUSTICE ON THEIR OWN.

AND, SO, AS THE SOCIAL CONTRACT EVOLVED, THE STATE TOOK ON RESPONSIBILITY FOR METING OUT JUSTICE -- FOR IDENTIFYING WRONGDOERS AND IMPOSING APPROPRIATE PUNISHMENT. INDIVIDUALS GAVE UP THEIR PERSONAL RIGHTS TO DO SO.

THE STATE CAME AND SAID: "YOU SURRENDER YOUR RIGHTS, WE WILL DO IT FOR YOU."

"FOR YOU!"

ORIGINALLY, THE VICTIM AND SURVIVORS WERE AT THE CENTER OF THE SYSTEM. THE STATE STOOD IN THEIR SHOES. THE STATE ACTED ON THEIR BEHALF. THE WHOLE PURPOSE WAS TO DO JUSTICE FOR THE VICTIM -- TO DELIVER THEM JUSTICE. THE STATE HAD A DUTY TO THE VICTIM.

WELL, WHAT HAS HAPPENED TO THE ORIGINAL CONCEPTION?

OVER THE CENTURIES, THE VICTIM HAS BEEN PUSHED ASIDE. THE VICTIM AND THE SURVIVOR BECAME ALMOST NON-PERSONS. INSTEAD OF BEING AT THE CENTER OF THE SYSTEM, THE VICTIM BECAME ALMOST A STRANGER TO IT. THEIR NEEDS, DESIRES, CONCERNS WERE NOT CONSIDERED. THE STATE WENT ABOUT ITS BUSINESS IN A COLD, IMPERSONAL, MECHANISTIC WAY.

THIS DISCONNECTION BETWEEN THE VICTIM AND THE CRIMINAL JUSTICE SYSTEM HELPED LEAD TO THE DISTORTION OF THE SYSTEM. THE SYSTEM BECAME OVERLY SOLICITOUS OF THE SENSIBILITIES OF CRIMINALS, WHILE IGNORING THE RIGHTEOUS CLAIMS OF VICTIMS.

SO THE TASK BEFORE US HAS BEEN TO REFORM THE CRIMINAL JUSTICE SYSTEM BY RESTORING THE ROLE OF THE VICTIM. THE VICTIM MUST BE RETURNED TO A CENTRAL PLACE IN THE CRIMINAL JUSTICE PROCESS. THIS MEANS WE MUST SEE TO THE NEEDS OF THE VICTIM THROUGHOUT THE PROCESS. IT MEANS PROVIDING FOR THEIR EMOTIONAL NEEDS. IT MEANS HELPING THEM TO HEAL. IT MEANS ASSISTING WITH THEIR MATERIAL NEEDS. IT MEANS HELPING TO MAKE THEM AS WHOLE AS WE CAN THROUGH

RESTITUTION AND COMPENSATION. IT MEANS ENSURING THAT VICTIMS HAVE FULL ACCESS TO THE PROCESS -- WITH NOTICE AND INFORMATION AT EACH STAGE. AND IT MEANS THAT THERE SHOULD BE FORMALIZED MECHANISMS FOR BRINGING THE VICTIMS' PERSPECTIVE INTO THE PROCESS -- INCLUDING AT THE SENTENCING AND ANY RELEASE PHASE.

AND, JUST AS IMPORTANTLY, IT MEANS THAT ALL THOSE WHO WORK IN THE CRIMINAL JUSTICE PROCESS -- THE POLICE, THE LAWYERS, THE JUDGES -- MUST CONSTANTLY BEAR IN MIND THE HUMAN DIMENSION -- THE NEED TO TREAT VICTIMS WITH DIGNITY, COMPASSION, AND UNDERSTANDING.

YES, THERE IS A SENSE IN WHICH WE MUST APPLY OUR CRIMINAL LAWS WITH DISPASSION AND OBJECTIVITY. BUT THAT DOESN'T MEAN THAT WE SHOULD FORGET -- BOTH WHEN WE MAKE LAWS, AND WHEN WE CARRY OUT JUSTICE -- THAT THERE IS A HUMAN REALITY, FLESH AND BLOOD, AT STAKE IN EVERY CRIME.

THANKS TO NOVA AND TO THE VICTIMS MOVEMENT, WE HAVE COME A LONG WAY OVER THE PAST 12 YEARS. WORKING TOGETHER, WE HAVE ACHIEVED IMPRESSIVE ACCOMPLISHMENTS AT THE FEDERAL LEVEL:

- PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME FINAL REPORT IN 1982;
- THE VICTIM WITNESS PROTECTION ACT OF 1982;
- THE ENACTMENT OF THE LANDMARK VICTIMS OF CRIME ACT IN 1984,

- WHICH ESTABLISHED OVC AND THE CRIME VICTIMS FUND;
- THE ATTORNEY GENERAL'S 1984 TASK FORCE ON FAMILY VIOLENCE REPORT;
 - THE 1988 AMENDMENTS TO VOCA;
 - THE CRIME CONTROL ACT OF 1990 WHICH INCLUDED THE FEDERAL VICTIMS BILL OF RIGHTS AND THE VICTIMS OF CHILD ABUSE ACT;
 - AND ALSO IN 1991 WAS OUR VICTORY IN PAYNE V. TENNESSEE WHERE WE RESTORED THE RIGHT TO HAVE VICTIM IMPACT STATEMENTS.

AND WE STILL HAVE AN UNFINISHED AGENDA AT THE FEDERAL LEVEL. RIGHT NOW WE DO HAVE A CRIME BILL PENDING -- IMPORTANT PROPOSALS AND INITIATIVES IN THE VICTIMS' RIGHTS AREA. NOT THE LEAST OF WHICH IS LIFTING THE CAP ON THE VICTIMS' FUND.

AND NOVA AND THE VICTIMS' MOVEMENT HAVE ALSO BEEN SUCCESSFUL AT THE STATE LEVEL:

- 48 STATES HAVE VICTIMS' BILL OF RIGHTS
- 34 STATES ALLOW VICTIM ALLOCATION UP FROM ONLY 3 IN 1982
- 8 STATES HAVE CONSTITUTIONAL AMENDMENTS WITH PROTECTION OF VICTIMS RIGHTS.

BUT AS I SAID, WE STILL HAVE A LONG WAY TO GO. THIS EFFORT AT THE STATE LEVEL IS PARTICULARLY IMPORTANT. WE WILL CONTINUE TO DO ALL WE CAN FOR VICTIMS.

BUT, 95% OF VIOLENT CRIME IS HANDLED AT THE STATE AND LOCAL

LEVEL, AND NO MATTER WHAT WE DO AT THE FEDERAL LEVEL, WE CAN ONLY HAVE A LIMITED IMPACT UNLESS WE FOLLOW THROUGH ON A STATE-BY-STATE BASIS.

NOW, AS YOU KNOW, THREE WEEKS AGO I ISSUED A VIOLENT CRIME REPORT WITH 24 SPECIFIC RECOMMENDATIONS ON HOW TO STRENGTHEN AND IMPROVE STATE CRIMINAL JUSTICE SYSTEMS. I ISSUED THE REPORT AFTER BROAD CONSULTATIONS WITHIN THE VICTIMS RIGHTS COMMUNITY. OVC WAS DIRECTLY INVOLVED AND GOT COMMENTS FROM A NUMBER OF VICTIM RIGHTS ADVOCATES.

JOHN WALSH, OF AMERICA'S MOST WANTED, WHO HAS DONE SO MUCH FOR THE VICTIMS MOVEMENT, WAS ALSO CENTRALLY INVOLVED IN REVIEWING THE REPORT. ON JULY 28, WE ISSUED THAT REPORT AT A BI-PARTISAN MEETING. THE DEMOCRATIC HEAD OF NATIONAL DISTRICT ATTORNEYS ASSOCIATION, A DEMOCRATIC STATE ATTORNEY GENERAL WHO WAS VICE-CHAIRMAN OF THE NATIONAL ATTORNEYS GENERAL ASSOCIATION CRIMINAL JUSTICE COMMITTEE, THE DEMOCRATIC PRESIDENT OF THE NATIONAL SHERIFF'S ASSOCIATION, THE PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE, AND TWO VICTIMS LEADERS WERE PRESENT TO ENDORSE THE REPORT.

NOW I REALIZE THAT EACH STATE IS A LITTLE DIFFERENT -- SOME MAY NOT BE APPLICABLE. I AM NOT DICTATING A BLUEPRINT FOR EVERY JURISDICTION. BUT I THINK THE REPORT PROVIDES SOUND CENTRAL GUIDANCE, AND I HOPE IT WILL STRENGTHEN THE HAND OF THOSE PUSHING

FOR REFORM.

IN THIS REGARD, THE REPORT PUTS VICTIMS' RIGHTS IN A CENTRAL ROLE. IT CALLS FOR LAWS RESPECTING THE VICTIM IN THE CRIMINAL JUSTICE PROCESS. UP UNTIL NOW, THERE HAVE BEEN TWO GROUPS WHO'VE UNDERSTOOD WHAT'S WRONG WITH THE CRIMINAL JUSTICE SYSTEM. LAW ENFORCEMENTS' GROWING RECOGNITION AND WILLINGNESS TO REFORM ITSELF, AND VICTIMS WHO HAVE BEEN THROUGH THE PROCESS AND SEEN ITS PROBLEMS FIRSTHAND. A LOT OF OTHER CITIZENS WHO HAVEN'T BEEN VICTIMS, HAVEN'T SEEN THE PROCESS. THEY KNOW SOMETHING IS WRONG WITH THE SYSTEM. BUT THEY ARE NOT SURE WHAT IT IS. I'M HOPING THAT THIS REPORT WILL EXPLAIN IN CLEAR TERMS TO THEM WHAT IS BREAKING DOWN IN THE CRIMINAL JUSTICE SYSTEM AND WHAT HAS TO BE IMPROVED.

WHILE I THINK VIRTUALLY ALL THE REPORTS' 24 RECOMMENDATIONS HAVE A BEARING ON VICTIMS' RIGHTS, SIX RECOMMENDATIONS DEAL DIRECTLY WITH VICTIMS' RIGHTS.

THE FIRST RECOMMENDATION FOR VICTIMS' RIGHTS CALLS UPON ALL STATES TO "PROVIDE FOR HEARING AND CONSIDERING THE VICTIMS' PERSPECTIVE AT SENTENCING AND AT ANY EARLY RELEASE PROCEEDINGS."

OUR SECOND RECOMMENDATION CALLS FOR ALL STATES TO PROVIDE VICTIM-WITNESS COORDINATORS. OFTEN, THROUGH NEGLIGENCE, VICTIMS AND SURVIVORS ARE LEFT IN THE DARK ABOUT THEIR RIGHTS AND ABOUT CRIMINAL PROCEEDINGS THAT AFFECT THEM PERSONALLY.

OUR THIRD RECOMMENDATION CALLS UPON STATES TO PROVIDE FOR VICTIM RESTITUTION AND FOR ADEQUATE COMPENSATION AND ASSISTANCE FOR VICTIMS AND WITNESSES.

SOMETIMES VICTIM-WITNESSES ARE SUBJECT TO INTIMIDATION AND HARASSMENT IN THE COURTROOM. FOR THIS REASON, OUR FOURTH RECOMMENDATION IS THAT STATES ADOPT EVIDENTIARY RULES TO PROTECT VICTIM-WITNESSES.

IN PARTICULAR, I BELIEVE EVERY STATE SHOULD AT A MINIMUM HAVE TWO SPECIFIC EVIDENTIARY PROTECTIONS.

THE FIRST IS A RAPE-SHIELD LAW. THE SECOND IS PROTECTION FOR CHILD-WITNESSES.

THE FIFTH RECOMMENDATION IS THAT STATES SHOULD PROVIDE, AT THE REQUEST OF THE VICTIM, FOR MANDATORY HIV TESTING OF DEFENDANTS IN SEXUAL OFFENSE CASES BEFORE TRIAL. AND ALL USE OF TEST RESULTS SHOULD BE HANDLED IN A WAY TO PROTECT THE VICTIM'S CONFIDENTIALITY.

OUR FINAL RECOMMENDATION IS THAT STATES NOTIFY THE VICTIM OF THE STATUS OF CRIMINAL JUSTICE PROCEEDINGS AND OF THE RELEASE STATUS OF THE OFFENDER.

I HOPE THAT THE VIOLENT CRIME REPORT STRENGTHENS OUR MUTUAL

EFFORTS TO REFORM THE CRIMINAL JUSTICE SYSTEM SO THAT THE SYSTEM DOES A BETTER JOB OF "BRINGING JUSTICE TO THE VICTIM." YOU CAN COUNT ON MY SUPPORT AND THE ADMINISTRATION'S SUPPORT IN YOUR EFFORTS IN ANY STATE YOU LIVE IN.

BUT, AS I SAID, THERE IS A SECOND WAY IN WHICH OUR CRIMINAL JUSTICE SYSTEM IS FAILING US, AND IS IN DIRE NEED OF REFORM. THE SYSTEM IS NOT DOING AN ADEQUATE JOB OF BRINGING CRIMINALS TO JUSTICE.

MANY STATE SYSTEMS ARE RELAPSING BACK TO THE REVOLVING DOOR SYSTEMS OF THE 60'S AND 70'S.

MANY VIOLENT OFFENDERS ARE NOT BEING GIVEN PRISON TIME; AND THOSE THAT ARE BEING SENT TO PRISON ARE BEING PREMATURELY RELEASED BACK OUT ONTO THE STREETS WHERE THEY COMMIT MORE CRIMES. WE HAVE TO ATTACK VIOLENT CRIME ON TWO FRONTS. WE HAVE TO DEAL WITH THE CHRONIC VIOLENT OFFENDER, WREAKING HAVOC ON THE STREETS TODAY. ON THE OTHER FRONT, WE HAVE TO DO ALL WE CAN TO PREVENT THE YOUTH OF TODAY FROM BEING THE HARDENED CRIMINALS OF TOMORROW. THESE APPROACHES HAVE TO GO HAND-IN-HAND. NOT ONE WITHOUT THE OTHER. WE DO HAVE TO GET TOUGH WITH THE CHRONIC VIOLENT OFFENDER.

THE EVIDENCE IS CLEAR THAT THE PROBLEM OF PREDATORY VIOLENCE IS LARGELY THE PROBLEM OF THE CHRONIC REPEAT OFFENDER.

STUDY-AFTER-STUDY SHOW THAT THERE IS A TINY FRACTION OF THE POPULATION THAT COMMITS MOST OF THE VIOLENCE. THESE ARE INCORRIGIBLE, REPEAT OFFENDERS. I AM TALKING ABOUT THE OFFENDERS WHO COMMIT OVER HUNDREDS OF CRIMES A YEAR ON THE STREETS. AND WHEN WE PICK UP THE NEWSPAPER, THESE CRIMES AREN'T BEING COMMITTED BY NOVICES, THEY ARE BEING COMMITTED BY PEOPLE WHO HAVE CRIMINAL RECORDS ALREADY. PEOPLE WHO ARE OUT ON BAIL, PAROLE, OR PROBATION WHO ARE UNDER SUPERVISION.

RECIDIVISM IS A VIRTUAL CERTAINTY. WHENEVER THEY ARE LET OUT OF CUSTODY THEY ARE ALMOST SURE TO COMMIT NEW CRIMES.

WITH THIS TYPE OF HABITUAL OFFENDER, ONE THING IS CLEAR: THE ONLY TIME WE KNOW THEY ARE NOT COMMITTING CRIMES IS WHEN THEY ARE LOCKED UP.

IN COMBATING VIOLENT CRIME, THEN, I BELIEVE THE PRIMARY GOAL OF THE CRIMINAL JUSTICE SYSTEM IS TO IDENTIFY, TARGET, AND INCAPACITATE THIS GROUP OF CHRONIC OFFENDERS. MAKING THEM SERVE APPROPRIATELY LONG SENTENCES AND HOLDING THEM A LENGTH OF TIME DICTATED BY THE PUBLIC'S SAFETY.

LET ME JUST DO THIS ROOM AS A MICROCOSM. THERE ARE ABOUT 500 PEOPLE IN THE ROOM. I THINK, AND THIS IS SOMEWHAT OF AN OVERSIMPLIFICATION, BUT NOT MUCH OF ONE, THAT THERE WOULD BE THREE

PEOPLE IN THIS ROOM WHO WOULD BE CHRONIC OFFENDERS AND WOULD BE RESPONSIBLE FOR THE MAJORITY OF THE VIOLENCE AND VICTIMIZATION THAT OCCURRED HERE. NOW, WHAT WOULD A SANE SOCIETY DO TO LIMIT THE REPEAT VICTIMIZATIONS THAT OCCURRED SO THAT THE OTHER 497 OF US COULD LIVE IN PEACE? YOU COULD TRY TO SEPARATE THOSE THREE AND TRY TO KEEP THEM OFF THE FLOOR. THE VICTIMIZATION THAT OCCURS IN THIS GROUP WOULD BE IN DIRECT PROPORTION TO THE AMOUNT OF FLOOR TIME THAT THESE REPEAT OFFENDERS HAD. UNFORTUNATELY, WHAT WE HAVE TODAY IS THE REVOLVING DOOR. AT LEAST TWO OF THOSE PEOPLE COULD BE OUT ON THE FLOOR AT ANY ONE TIME PERPETRATING CRIMES -- VICTIMIZING. AND THAT'S ESSENTIALLY WHAT'S GOING ON RIGHT NOW IN THIS COUNTRY.

UNFORTUNATELY, THAT IS WHAT WE SEE GOING ON. ACROSS THE NATION, WE STILL HAVE HUNDREDS OF THOUSANDS OF CHRONIC OFFENDERS BEING CYCLED BACK OUT ON THE STREETS.

ONLY 37% OF SENTENCES FOR VIOLENT CRIMES ARE BEING SERVED. AND THAT PERCENTAGE IS DROPPING.

FOR RAPE, THE AVERAGE SENTENCE GIVEN IS 8 YEARS. THE AVERAGE TIME SERVED IS LESS THAN 3 YEARS. THAT'S THE PRICE OF A RAPE IN THIS COUNTRY.

5 OUT OF 8 FELONS RELEASED EARLY FROM PRISON ARE ARRESTED FOR A SERIOUS CRIME WITHIN 3 YEARS OF RELEASE.

AT LEAST 30% OF ALL MURDERS -- PROBABLY ALL PREDATORY -- ARE COMMITTED BY PERSONS ON BAIL, PROBATION, OR PAROLE. 6,500 OF OUR FELLOW CITIZENS ARE MURDERED EACH YEAR BY INDIVIDUALS WHO WERE TAKEN INTO CUSTODY FOR AN OFFENSE AND RELEASED PREMATURELY. THIS IS AN OUTRAGE. WE HAVE TO STOP THIS REVOLVING DOOR.

IN THE 1980'S WE DID A GOOD JOB WITH THE FEDERAL SYSTEM. THERE'S NO REVOLVING DOOR IN THE FEDERAL SYSTEM. IN THE 1990'S WE HAVE TO APPLY THE SAME REFORM TO THE STATE SYSTEM. AND THAT IS WHAT THE VIOLENT CRIME REPORT SEEKS TO DO. TO PROVIDE A COMPREHENSIVE BLUEPRINT OF HOW TO STRENGTHEN THE SYSTEM.

I THINK STOPPING THE REVOLVING DOOR FOR VIOLENT OFFENDERS IS A VICTIMS' RIGHTS ISSUE.

IT IS A VICTIMS' ISSUE BECAUSE THE PREMATURE RELEASE OF VIOLENT OFFENDERS DEPRIVES THE VICTIM AND SURVIVORS OF ANY SENSE THAT JUSTICE HAS BEEN DONE. IT IS A VICTIMS ISSUE BECAUSE PREMATURE RELEASE LEADS TO REVICTIMIZATION.

IT IS A VICTIMS' ISSUE BECAUSE THE REVOLVING DOOR BRINGS ABOUT MORE AND MORE VICTIMS. AND ONE OF THE NOBLEST THINGS ABOUT THE VICTIMS RIGHTS MOVEMENT IS THAT IT SEEKS TO PREVENT OTHERS FROM BECOMING VICTIMS.

I WON'T GO THROUGH ALL THE RECOMMENDATIONS. BUT LET ME

HIGHLIGHT A FEW KEY ONES.

- PRE-TRIAL DETENTION, LIKE WE HAVE IN THE FEDERAL SYSTEM.
- TRUTH IN SENTENCING, AND RESTRICTED PAROLE PRACTICES.
- MANDATORY MINIMUM SENTENCES FOR HABITUAL OFFENDERS.
- ADEQUATE JAIL AND PRISON CAPACITY.
- BASIC REFORM OF THE JUVENILE JUSTICE SYSTEM, WHICH IS NOW NOT CARRYING OUT ITS TWO FUNCTIONS:

1. SALVAGE THE SALVAGEABLE: HELPING KIDS SO THEY DON'T BECOME CRIMINALS.

2. PROTECT SOCIETY FROM THE HARDENED CRIMINAL.

THE JUVENILE SYSTEM IS CURRENTLY NOT DOING EITHER.

- THE USE OF JUVENILE RECORDS IN ADULT SENTENCING.

THESE ARE JUST SOME OF THE RECOMMENDATIONS.

IN MY VIEW, WE WILL NOT SEE ANY REDUCTION IN VICTIMIZATION, NOR ANY SUCCESS OF OUR SOCIAL PROGRAMS, UNLESS WE STRENGTHEN OUR CRIMINAL JUSTICE SYSTEMS SO THEY CAN DEAL MORE EFFECTIVELY WITH CHRONIC OFFENDERS.

IN SUM, THEN, NOVA HAS BEEN IN THE FOREFRONT OF RESTORING OUR CRIMINAL JUSTICE SYSTEM. NOVA AND OTHER VICTIMS' RIGHTS ORGANIZATIONS HAVE BEEN THE SPEARHEAD FOR RESTORING JUSTICE TO OUR SYSTEM.

AND JUSTICE MUST MEAN, FIRST AND FOREMOST, GIVING JUSTICE TO THE VICTIMS OF CRIME. BECAUSE OF YOUR ADVOCACY ROLE, OTHER

CITIZENS' GROUPS HAVE BECOME MORE AWARE OF THE NEED FOR REFORM.

I SEE A STRONG AND ULTIMATELY IRRESISTIBLE COALITION FORMING OF PEOPLE WHO ARE CONCERNED ABOUT THE STATE OF OUR CRIMINAL JUSTICE SYSTEM:

- LAW ENFORCEMENT;
- VICTIMS' RIGHTS ORGANIZATIONS;
- AND AWARE CITIZENS' GROUPS.

I PLEDGE THAT I, AND THIS ADMINISTRATION, WILL STAND SHOULDER-TO-SHOULDER WITH NOVA AND OTHER VICTIMS GROUPS TO MAKE YOUR NATION MORE SAFE AND MORE JUST. GOD BLESS YOU FOR THE TREMENDOUS WORK YOU DO.

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August 19, 1992

Section: JOHNSON COUNTY/METRO

Attorney general speaks out for victims' rights Movement is bringing justice
back into system, he says, but strict sentences, more funds are needed.

TOM JACKMAN

U.S. Attorney General William Barr on Tuesday applauded the efforts of advocates for crime victims' rights and called for tougher sentencing laws and more law enforcement funding at the state level.

"Retribution has somewhat of a bad name these days," Barr told an audience of about 600 victims' rights workers meeting in Kansas City. "But I think it ultimately stands at the heart of what justice, at least in the criminal system, is all about. Organization for Victim Assistance, Barr sought support for his recent report, "Combating Violent Crime: 24 Recommendations to Strengthen Criminal Justice. " Barr credited the victim rights' movement with "changing the way Americans think about crime and the criminal justice system. .

. . This movement is helping to bring justice back into the criminal justice system. " Barr intertwined two themes through his 30-minute speech: the need for greater sensitivity to crime victims at every stage of the justice process, and the need for stricter laws on trials, sentencing, appeals, juveniles and repeat offenders.

"The criminal justice system in our country, particularly at the state level, is still fundamentally broken," Barr said.

Barr reiterated a theory he discussed here in March with law enforcement officials, that "predatory violence is largely the problem of the repeat offender . . . One of our primary goals in the criminal justice system has to be to identify and target this group of hard-core criminals, and make them serve sentences that protect the public safety. " Barr's new guidelines call for states to hold dangerous defendants without bond before trial, to adopt "truth in sentencing" by restricting parole, to increase jail and prison space, and to institute mandatory minimum penalties for gun offenders and repeat criminals.

The attorney general then provided statistics: On average, violent criminals actually serve only about 37 percent of their sentences.

An average sentence of eight years for rape translates to release in less than three years.

More than 60 percent of convicts who are granted early release are arrested again within three years.

About 30 percent of all murders in this country are committed by people on probation, parole or bail.

"I think stopping this revolving door is a victims' rights issue," Barr said. "It seeks to prevent others from becoming victims. " Some of Barr's other proposals: Adopt drug testing for defendants throughout the criminal justice process; use asset forfeiture to fight crime and supplement law enforcement resources; establish tough juvenile penalties to deter first-time offenders from further crimes; reform evidence rules to enhance the "truth-seeking" function of criminal trials; and six provisions to include victims in all phases of the criminal process.

"Victim rights must be an integral part of the criminal justice system," Barr said. His proposals include allowing victims to testify at sentencing and release proceedings, notifying victims of proceedings and release status, and providing restitution and compensation for victims and witnesses.

Many of Barr's victim proposals are in effect locally. The Jackson County prosecutor's office has had a victim-witness assistance unit for years, as have Kansas City police.

Barr was introduced by Brenda Meister of the federal Office for Victims of Crime as "an ardent, active advocate of crime victims' rights. " Barr's speech was received enthusiastically by members of the national organization, which is meeting here through Friday.

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---- **Index References** ----

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NewsRoom

REMARKS OF

**WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES**

**SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE
35TH ANNUAL CONVENTION
DAYTON, OHIO**

AUGUST 10, 1992

IT IS A PLEASURE TO SEE DR. JOSEPH LOWERY, PRESIDENT OF THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE; AND THE REV. RICHARD DALTON, NATIONAL DIRECTOR OF WINGS OF HOPE.

BEFORE I BEGIN, LET ME FIRST SAY WHAT A PRIVILEGE IT IS FOR ME TO BE HERE TODAY.

IT IS A GREAT HONOR FOR ME TO ADDRESS A GROUP THAT, OVER THE LAST 35 YEARS, HAS DONE SO MUCH FOR THE CAUSE OF LIBERTY AND JUSTICE IN THIS COUNTRY.

THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE HAS COME A LONG WAY FROM THE EBENEZER BAPTIST CHURCH AND THE ATLANTA OF 1957.

ALONG THE WAY, YOU HAVE DONE ENORMOUS GOOD FOR YOUR FELLOW CITIZENS -- BOTH SOUTHERN AND NORTHERN, CHRISTIAN AND NON-CHRISTIAN, BLACK AND WHITE. THIS NATION OWES THE S.C.L.C. A DEBT OF GRATITUDE. THANK YOU FOR YOUR TIRELESS WORK.

TODAY I WOULD LIKE TO TALK TO YOU ABOUT VIOLENT CRIME, THE IMPACT IT HAS ON OUR COMMUNITY.

AS ATTORNEY GENERAL, I HAVE BEEN TRYING TO HAMMER AWAY ON THREE BASIS IDEAS:

FIRST, IT IS TIME TO MAKE A STAND AGAINST VIOLENCE IN OUR SOCIETY. WE CANNOT ALLOW OURSELVES TO BECOME INURED TO IT.

THE KILLING, THE RAPING, THE SHOOTINGS, AND THE MAYHEM IS EXACTING A TERRIBLE TOLL -- NOT ONLY ON THE LIVES OF OUR CITIZENS, BUT ON WHOLE COMMUNITIES AND THE VERY FABRIC OF OUR SOCIETY.

WE HAVE TO DO ALL WE CAN TO FIGHT VIOLENT CRIME.

AND WE CANNOT HAVE TWO STANDARDS OF SAFETY IN THIS COUNTRY -- ONE FOR THE SUBURBS AND ONE FOR THE INNER CITY.

EVERY CITIZEN DESERVES THE FULL PROTECTION OF THE LAWS, AND IT IS THE SOLEMN DUTY OF THE GOVERNMENT TO DO ALL WE CAN TO FIGHT VIOLENT CRIME.

THE SECOND BASIC IDEA IS THAT, IF WE ARE GOING TO MAKE ANY HEADWAY IN OUR EFFORTS AGAINST VIOLENT CRIME, WE ARE GOING TO HAVE TO BUILD A BROAD COALITION THAT ENGAGES ALL ELEMENTS OF THE COMMUNITY IN A WORKING PARTNERSHIP WITH LAW ENFORCEMENT.

WE NEED LAW ENFORCEMENT AND THE COMMUNITY WORKING TOGETHER AS A TEAM.

AND THE THIRD BASIC IDEA IS THIS: WHILE TOUGH LAW ENFORCEMENT IS AN ESSENTIAL -- AN INDISPENSABLE -- PART OF FIGHTING VIOLENT CRIME, LAW ENFORCEMENT CANNOT DO THE JOB ALONE.

LAW ENFORCEMENT MUST GO HAND-IN-HAND WITH STRONG AND EFFECTIVE EFFORTS TO REBUILD AND RENEW OUR COMMUNITIES PHYSICALLY, ECONOMICALLY, SOCIALLY, AND MORALLY.

THIS IS AN IMPORTANT POINT.

OUR FIGHT AGAINST VIOLENT CRIME IS A TWO FRONT WAR.

ON THE ONE HAND, WE HAVE TO DEAL FIRMLY WITH THE HARDCORE PREDATORS WHO ARE ON THE STREETS TODAY, CAUSING SO MUCH SUFFERING TODAY.

BUT AT THE SAME TIME, WE NEED TO TAKE EFFECTIVE STEPS TODAY TO PREVENT OUR YOUNG PEOPLE FROM BECOMING THE CRIMINALS OF TOMORROW.

SO I WOULD LIKE TO SPEND MY TIME WITH YOU THIS MORNING, EXPANDING UPON THESE THREE POINTS AND HOW THEY RELATE TO HOW OUR WEED AND SEED PROGRAM AND WINGS OF HOPE CAN WORK TOGETHER FOR A SAFER, JUSTER, AND BETTER AMERICA.

I.

I DON'T HAVE TO TELL YOU THAT VIOLENCE IS AT INTOLERABLY HIGH LEVELS IN OUR SOCIETY.

MURDERS AND RAPE ARE ON THE INCREASE.

GANG VIOLENCE IS SPREADING ALL ACROSS THE COUNTRY.

THE VIOLENCE SEEMS TO BE COMING MORE SENSELESS AND WANTON.

RECENTLY IN WASHINGTON A 19 YEAR OLD NICKNAMED "LITTLE MAN", WHILE DRIVING DOWN THE HIGHWAY RANDOMLY POINTED HIS SEMIAUTOMATIC AT A PASSING CAR AND KILLED A YOUNG MOTHER IN A HALE OF BULLETS.

HIS STATED REASON: HE JUST FELT LIKE KILLING SOMEBODY.

THESE KINDS OF EVENTS ARE BECOMING ALL TOO COMMON.

AND ONE OF THE SCARIEST THINGS IS THAT MORE AND MORE YOUNG PEOPLE -- KIDS -- ARE COMMITTING MORE AND MORE OF THE VIOLENT CRIME.

I DON'T HAVE TO TELL YOU WHO IS PAYING THE HIGHEST PRICE.

IT IS OUR INNER CITY NEIGHBORHOODS THAT ARE THE HARDEST HIT.

IT IS THE POOR AND MINORITIES THAT ARE VICTIMIZED THE MOST.

BLACKS ARE DISPROPORTIONATELY THE VICTIMS OF MURDER, RAPE,
AND AGGRAVATED ASSAULT.

AND YOU KNOW WHO SUFFERS THE HIGHEST ECONOMIC LOSSES FROM
CRIME -- LOW INCOME HOUSEHOLDS.

NOW CRIME NOT ONLY VICTIMIZES PEOPLE DIRECTLY THROUGH
VIOLENCE, IT ALSO MAKES THE WHOLE COMMUNITY THE VICTIMS OF FEAR.

ONE OF THE HALLMARKS OF OUR LIVES THESE DAYS IS THE
INCREASING LEVELS OF FEAR AND INSECURITY AND THE EXTENT THAT FEAR
AFFECTS THE CHOICES WE MAKE AND LIMITS OUR FREEDOM IN OUR DAILY
LIVES.

AS DEPUTY ATTORNEY GENERAL AND AS ATTORNEY GENERAL, WHEN I
TRAVEL, I HAVE MADE IT A PRIORITY TO VISIT INNER CITY
NEIGHBORHOODS; TO GO INTO THE HOUSING PROJECTS; AND TALK TO THE
COMMUNITY LEADERS, THE MOTHERS, THE KIDS.

IN SOME OF OUR COMMUNITIES, I HAVE SEEN ROW UPON ROW OF HOUSES, WITH BARS ON THE WINDOWS, BARS ON THE DOORS; EVEN BARS AROUND THE PORCHES.

NEIGHBORHOODS LIKE THIS ARE ALMOST UNDER SIEGE.

HERE ARE GOOD, DECENT, HARDWORKING, LAW-ABIDING CITIZENS BEING DEPRIVED OF THEIR FREEDOM -- FORCED TO LIVE BEHIND BARS -- PRISONERS IN THEIR OWN HOME.

IT IS VIOLENT CRIMINALS AND DRUG DEALERS WHO SEEM ABLE TO ROAM THE STREETS IN PERFECT LIBERTY.

A COUPLE OF MONTHS AGO, I WAS DOWN IN FORT WORTH AND VISITED THE PRINCE HALL APARTMENT PROJECTS THAT WAS IN OUR WEED AND SEED AREA.

THE POLICE -- WORKING WITH THE TENANTS -- HAD JUST COMPLETED AN OPERATION THAT DROVE OUT THE DRUG DEALERS AND GANGS.

I'LL NEVER FORGET BESSIE EDWARDS, 73 YEARS OLD. SHE CAME DOWN FROM HER APARTMENT, CLUTCHED MY HAND AND THANKED ME, THE POLICE AND EVERYBODY ELSE.

SHE SAID SHE HAD BEEN A PRISONER IN HER HOME FOR MONTHS, AND HAD BEEN SLEEPING ON THE FLOOR BECAUSE OF NIGHTLY GUNFIRE IN THE COMPLEX.

AND CRIME CAUSES ANOTHER KIND OF FEAR THAT IS PERHAPS THE MOST WRENCHING -- FEAR FOR OUR CHILDREN AND THEIR FUTURE.

WHAT PARENT DOESN'T HAVE A GNAWING ANXIETY ABOUT THE SAFETY OF HIS OR HER CHILD IN TODAY'S WORLD.

WE WORRY ABOUT THEM ON THE WAY TO SCHOOL, AND NOW EVEN IN SCHOOL; WE WORRY ABOUT THEM OUT ON THE STREET; OUT ON DATES. WE WORRY ABOUT THEM IF THEY ARE AWAY AT SCHOOL.

WE LOOK AT THE COLD STATISTICS AND SEE THAT THE CHANCES THAT THEY WILL LIVE OUT THEIR LIFE WITHOUT BECOMING THE VICTIM OF A SERIOUS CRIME ARE BECOMING SMALL.

ONE OF MY ASSISTANTS VISITED CABRINI GREEN HOUSING PROJECT IN CHICAGO. SOME OF THE MOTHERS TOLD HIM THAT THE GANG GUN BATTLES WERE SO BAD THAT THEY HAD THEIR CHILDREN SLEEP IN BATHTUBS TO PROTECT THEM FROM STRAY BULLETS.

WE HAVE NOW COME TO "ARMORED CRIBS".

OBVIOUSLY, WE CANNOT ALLOW THIS KIND OF VIOLENCE TO GO ON.

AND THAT MEANS THAT WE CANNOT HAVE TWO DIFFERENT STANDARDS OF SECURITY IN THIS NATION -- ONE FOR THE SUBURBS AND ONE FOR THE INNER CITY.

EVERYBODY DESERVES THE PROTECTION OF THE LAWS. WE HAVE TO DO ALL WE CAN TO BRING PEACE AND SAFETY TO ALL OF OUR NEIGHBORHOODS.

YOU REMEMBER THAT WORLD WAR I HAD LONG AND BLOODY TRENCH WARFARE.

WELL, DURING THAT WAR, THE GENERALS HAD A TERM THEY CALLED: "NORMAL WASTAGE".

THIS WAS THE NUMBER OF CASUALTIES ON ANY GIVEN QUIET DAY WHEN THERE WAS NO BIG BATTLE GOING ON AND THERE WERE THE USUAL POT SHOTS BACK AND FORTH.

NORMAL WASTAGE. AND, THE NORMAL WASTAGE WAS SEVERAL THOUSAND A DAY.

WELL, WE CANNOT ALLOW OURSELVES TO BECOME INURED TO VIOLENCE AND KILLING.

WE CANNOT ALLOW OURSELVES TO GET TO THE POINT WHERE WE CONSIDER "WASTAGE" NORMAL.

ANOTHER REASON WE HAVE TO TAKE A STRONG STAND AGAINST VIOLENT CRIME IS BECAUSE, TODAY, VIOLENT CRIME HAS BECOME PART OF A VICIOUS CYCLE.

I THINK WE HAVE ALL TAKEN IT FOR GRANTED THAT POVERTY HELPS CAUSE CRIME.

BUT -- TODAY -- IT IS ALSO CLEAR THAT "CRIME IS CAUSING POVERTY".

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN NEIGHBORHOODS TAKING JOBS AND OPPORTUNITIES WITH THEM.

POTENTIAL INVESTORS AND WOULD-BE EMPLOYERS ARE SCARED AWAY.

EXISTING OWNERS ARE DETERRED FROM MAKING IMPROVEMENTS.

AS PROPERTY VALUES GO DOWN, OWNERS DISINVEST.

ONE CRIMINOLOGIST DESCRIBES HOW CRIME IMPOVERISHES A WHOLE COMMUNITY:

II.

AND THAT BRINGS ME TO MY SECOND POINT.

IF WE ARE GOING TO DO ANYTHING ABOUT VIOLENT CRIME, WE HAVE TO BUILD A PARTNERSHIP BETWEEN LAW ENFORCEMENT AND THE COMMUNITY.

IN THE 1970'S, I THINK THE LAW ENFORCEMENT COMMUNITY MADE A MISTAKE.

IT THOUGHT THE ANSWER TO FIGHTING CRIME COULD BE FOUND MAINLY IN TECHNOLOGY, COMPUTERS, COMMUNICATIONS GEAR AND SO FORTH.

IT TOOK THE POLICE OFF THE BEAT AND PUT THEM IN POLICE CRUISERS, RESPONDING TO CRISES.

THIS TENDED TO SEPARATE THE POLICE FROM THE COMMUNITY.

IN SOME PLACES, THE POLICE WERE VIEWED ALMOST LIKE ANY OF OCCUPATION.

THIS SEPARATION HELPED TO BREED DISTRUST.

IN THIS KIND OF ENVIRONMENT, IT IS EASY FOR "THEM VERSUS US" MENTALITY TO ARISE.

AND WHEN THERE ARE INCIDENTS OF POLICE BRUTALITY, THE
DISTRUST IS HEIGHTENED.

AND LET ME SAY THIS ABOUT POLICE MISCONDUCT. NO ONE
CONDEMNS POLICE BRUTALITY MORE THAN LAW ENFORCEMENT ITSELF.

AND WE IN THE DEPARTMENT HAVE BEEN, AND WILL CONTINUE TO BE
VIGILANT IN INVESTIGATING AND, WHERE APPROPRIATE, PROSECUTING
POLICE MISCONDUCT.

BUT I ALSO THINK THAT FAIR-MINDED AMERICANS DON'T JUDGE ALL
POLICE BECAUSE OF A FEW BAD APPLES.

THE VAST MAJORITY OF POLICE ARE GOOD AND DEDICATED PEOPLE
WHO ARE DOING A DIFFICULT JOB.

I THINK WE ALSO HAVE TO RECOGNIZE THAT POLICE DEPARTMENTS
HAVE COME A LONG WAY IN THE PAST 20 YEARS.

THEY HAVE BEEN GOING THROUGH A PROCESS OF REFORM.

POLICE FORCES HAVE BEEN BECOMING MORE INTEGRATED. WE NOW
HAVE BLACK POLICE CHIEFS IN MANY OF OUR LARGEST CITIES.

AND FRANKLY, THESE CHIEFS -- SUCH AS RUEBEN GREENBERG -- HAVE BEEN IN THE VANGUARD IN DEVELOPING THE CONCEPT OF "COMMUNITY-ORIENTED POLICING".

THIS IS THE APPROACH OF GETTING POLICE OUT OF THE CRUISERS AND BACK INTO THE COMMUNITIES.

POLICE WORK WITH THE COMMUNITY AS PROBLEM SOLVERS.

OF COURSE, S.C.L.C. DOESN'T NEED REMINDERS ABOUT THE IMPORTANCE OF COOPERATION BETWEEN LAW ENFORCEMENT AND COMMUNITY GROUPS.

I KNOW THAT THE WINGS OF HOPE ANTI-DRUG PROGRAM USES THE STRATEGY OF THE FAIRLAWN COALITION BACK IN SOUTHEAST, WASHINGTON, D.C. THE KENNEDY SCHOOL OF GOVERNMENT AT HARVARD HAS CALLED THIS COALITION ONE OF THE BEST GRASS-ROOTS INITIATIVES IN THE NATION.

ITS STRATEGY INVOLVES MOBILIZING ENTIRE NEIGHBORHOODS INTO ANTI-DRUG AND ANTI-CRIME PATROLS, IN CLOSE COOPERATION WITH LOCAL LAW ENFORCEMENT.

THE EXPERIENCE IN FAIRLAWN TEACHES SOME IMPORTANT LESSONS ABOUT COOPERATION. BEFORE THE COALITION GOT STARTED, THE PEOPLE OF FAIRLAWN WERE AMBIVALENT TOWARD THE LOCAL LAW ENFORCEMENT COMMUNITY.

AT FIRST, THEY SAW THE COPS AS UNINTERESTED AND UNINVOLVED -- CUT OFF FROM THE PEOPLE, JUST GOING THROUGH THE MOTIONS, ASKING THE OBLIGATORY QUESTIONS, FILING THE OBLIGATORY REPORTS. THE POLICE AND THE RESIDENTS DID NOT TRUST EACH OTHER.

BUT GRADUALLY THEY OVERCAME THEIR INITIAL APPREHENSIONS. AND SOON THEY BECAME AN EFFECTIVE TEAM. TOGETHER, THEY DEvised STRATEGIES AND GOALS. THEY SHARED INFORMATION. OUT ON THE STREET, THEY COMMUNICATED BY WALKIE-TALKIE TO MONITOR THE MOVEMENTS OF SUSPECTED DRUG DEALERS.

NOT SURPRISINGLY, THEY ALSO HAD GREAT SUCCESS. THE COALITION WAS FORMED IN 1988. WITHIN TWO YEARS, WITH INFORMATION RECEIVED FROM THE MEMBERS OF THE COALITION, THE POLICE WERE ABLE TO CLOSE 15 DRUG HOUSES. THE NUMBER OF SERIOUS CRIMES DROPPED DRAMATICALLY. ONCE AGAIN, CHILDREN WERE SEEN PLAYING ON THE STREETS OF FAIRLAWN.

III.

BUT IT WILL TAKE MORE THAN JUST LAW ENFORCEMENT.

AS I SAID AT THE OUTSET WE NEED TO COMBINE STRONG LAW ENFORCEMENT WITH THE ECONOMIC, SOCIAL, AND MORAL REVITALIZATION OF OUR COMMUNITIES.

NOW THE FACT IS THAT WE HAVE BEEN INVESTING A GREAT DEAL IN SOCIAL PROGRAMS. CONTRARY TO POPULAR BELIEF, THERE HAVE BEEN SUBSTANTIAL INCREASES UNDER THIS ADMINISTRATION.

BUT I THINK WE HAVE TO TAKE STOCK AND SEE IF WE CAN DO A BETTER JOB. WE SHOULD CONSIDER WHAT HAS WORKED AND WHAT HASN'T WORKED.

NOW I THINK THERE ARE WAYS WE CAN IMPROVE OUR PROGRAMS.

LET ME MENTION JUST FOUR.

A. TOO OFTEN OUR PROGRAMS HAVE BEEN CENTRALLY MANAGED BY WASHINGTON BUREAUCRACIES.

I THINK WE HAVE TO RELY ON THE COMMUNITY ITSELF TO RUN THESE PROGRAMS.

B. WE NEED TO TRY SOME NEW APPROACHES.

THAT'S WHY WE ARE PROPOSING ENTERPRISE ZONES THAT CAN ATTRACT REAL JOBS AND OPPORTUNITIES INTO THE INNER CITY.

C. WE HAVE TO LOOK FOR WAYS TO STRENGTHEN FAMILIES.

OVER THE PAST 25 YEARS WE HAVE WITNESSED THE BREAKDOWN OF THE FAMILY.

WE HAVE TO REVERSE THIS TREND.

JACK KEMP LIKES TO CALL THE FAMILY THE ORIGINAL DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE. IT SEEMS TO ME THAT THAT IT IS ALSO, IN SOME MEASURE, A DEPARTMENT OF JUSTICE. THE FAMILY IS PROBABLY THE SINGLE MOST IMPORTANT SOURCE OF THE VALUES THAT WILL DETERMINE WHETHER A CHILD WILL RESPECT AND ABIDE BY THE LAW. STATISTICS SHOW THAT KIDS FROM DYSFUNCTIONAL FAMILIES ARE MUCH MORE LIKELY TO GET INTO TROUBLE THAN KIDS FROM STRONG FAMILIES. SOLID FAMILY LIFE AND STABLE MARRIAGE ARE NOT ONLY THE BUILDING BLOCKS OF SOCIETY, BUT ALSO THE BEST FOUNDATION FOR THE STRUGGLE FOR SOCIAL JUSTICE. AS MARTIN LUTHER KING, JR. ONCE SAID, "IT IS LOGICAL, MORAL, AND PSYCHOLOGICALLY CONSTRUCTIVE FOR US TO RESIST OPPRESSION UNITED AS FAMILIES."

TODAY, HOWEVER, THE FAMILY IS UNDER SIEGE. THAT'S WHY, IN THE FUTURE, SMART SOCIAL REFORM PROGRAMS SHOULD FOCUS ON STRENGTHENING THE FAMILY AND THE OTHER INSTITUTIONS THROUGH WHICH VALUES AND ETHICS ARE INSTILLED IN OUR CHILDREN: RELIGIOUS ORGANIZATIONS, SCHOOLS, AND COMMUNITY ASSOCIATION.

WHEN FAMILIES BREAK DOWN, IT'S TIME FOR CHURCHES AND COMMUNITY INSTITUTIONS TO STEP IN. THIS IS ANOTHER REASON WHY I AM SO PLEASED WITH THE WINGS OF HOPE PROJECT. IT ENCOURAGES CHURCHES TO ADOPT FAMILIES IN TROUBLE. AND THESE CHURCHES EFFECTIVELY CONVEY THE MESSAGES OF MORALITY THAT YOUNG PEOPLE NEED TO HEAR.

D. AND WE HAVE TO GIVE FULLER REIN TO THE INSTITUTIONS THAT CAN EXERCISE MORAL AUTHORITY. I AM SPEAKING OF CHURCHES AND RELIGION.

LAST YEAR THERE WAS A NATIONAL STUDY OF DRUG USE AMONG HIGH SCHOOL SENIORS. THE RESEARCHERS FOUND DRUG USE IN ALL SECTORS OF SOCIETY -- REGARDLESS OF INCOME, EDUCATION, AND GEOGRAPHY. THE ONLY VARIABLE THAT SEEMED TO CORRELATE CONSISTENTLY WITH LOWER DRUG USE WAS RELIGIOUS INFLUENCE AND CHURCH ATTENDANCE.

A STUDY OF TEENAGE SEXUAL ACTIVITY PUBLISHED BY PLANNED PARENTHOOD'S ALAN GUTTMACHER INSTITUTE -- AN ORGANIZATION NOT KNOWN FOR PROMOTING RELIGION -- UNCOVERED SIMILAR PATTERNS. AMONG THE CHIEF FACTORS LEADING TEENAGERS TO POSTPONE SEXUAL ACTIVITY, THE VERY FIRST ONE WAS CHURCH ATTENDANCE.

THIS CANNOT COME AS A SURPRISE TO YOU. FROM THE VERY BEGINNING, THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE HAS KNOWN THE IMPORTANCE OF RELIGION FOR TRUE SOCIAL PROGRESS. IT WAS MARTIN LUTHER KING, JR. HIMSELF WHO SAID, "THERE IS SO MUCH FRUSTRATION IN THE WORLD BECAUSE WE HAVE RELIED ON GODS RATHER THAN GOD." THE "GODS" -- WITH A SMALL G -- THAT HE HAD IN MIND WERE THINGS LIKE MONEY, PLEASURE, AND TECHNOLOGY. HE SAID, "THESE TRANSITORY GODS ARE NOT ABLE TO SAVE OR BRING HAPPINESS TO THE HUMAN HEART. ONLY GOD IS ABLE. IT IS FAITH IN HIM THAT WE MUST REDISCOVER."

THE REDISCOVERY OF FAITH IN GOD. THAT'S WHAT I CALL A REAL PROGRAM FOR CHANGE.

WE MUST CREATE A SOCIAL ENVIRONMENT WHERE FAMILIES AND CHURCHES CAN GROW STRONG, AN ENVIRONMENT WHERE JUSTICE AND PEACE CAN FLOURISH. THUS, THE CHALLENGE WE FACE IN THE '90S IS TO DEPLOY AND FOCUS BOTH OUR LAW ENFORCEMENT AND OUR SOCIAL RESOURCES -- AT THE SAME TIME, IN THE SAME PLACE, AND IN THE SAME MUTUALLY REINFORCING WAY.

TO ACCOMPLISH THIS, PRESIDENT BUSH HAS LAUNCHED THE WEED AND SEED PROGRAM. WEED AND SEED HAS TWO PARTS. IN THE FIRST, FEDERAL STATE, AND LOCAL LAW ENFORCEMENT FOCUS ON A PARTICULAR CRIME-RIDDEN NEIGHBORHOOD. WORKING WITH THE COMMUNITY, THEY "WEED OUT" THE VIOLENT OFFENDERS, DRUG TRAFFICKERS, AND GANGS. THEN, AS THE STREETS ARE RECLAIMED, INTENSIVE COMMUNITY POLICING BEGINS SO THAT THE GROUND, ONCE TAKEN, IS HELD.

FINALLY, A BROAD RANGE OF FEDERAL, STATE, LOCAL AND PRIVATE COMMUNITY REVITALIZATION PROGRAMS ARE BROUGHT TO BEAR ON THE NEIGHBORHOOD: DRUG PREVENTION PROGRAMS, HEAD START, JOB TRAINING, HEALTH-CARE PROGRAMS, COMMUNITY DEVELOPMENT GRANTS. THESE PROGRAM ARE APPLIED TOGETHER, IN A COHERENT WAY, IN ONE PARTICULAR AREA, AND SUPPORTED BY LAW ENFORCEMENT. THEY PLANT THE SEEDS OF LONG-TERM STABILITY AND GROWTH.

ON THE BUSINESS SIDE, WEED AND SEED WILL HELP CREATE ENTERPRISE ZONES IN THE URBAN AREAS THAT NEED INVESTMENT THE MOST. UP TO \$400 MILLION OF THE WEED AND SEED MONEY EARMARKED IN THE 1993 BUDGET WILL GO TO THE ESTABLISHMENT OF THESE ENTERPRISE ZONES. ADDITIONALLY, PUBLIC HOUSING DEVELOPMENTS WILL BE ELIGIBLE FOR DRUG ELIMINATION GRANTS AND MODERNIZATION FUNDS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

I MUST STRESS THAT WEED AND SEED IS MORE THAN JUST ANOTHER FEDERAL SPENDING PROPOSAL. IT IS A NEW APPROACH -- A NEW WAY OF DOING BUSINESS. IT'S A NEW WAY TO ADDRESS THE PROBLEMS OF URBAN AMERICA.

THE WEED AND SEED STRATEGY COMBINES TOUGH LAW ENFORCEMENT WITH PHYSICAL, MORAL, AND ECONOMIC RENEWAL. I THINK IT IS A MARVELOUS EMBODIMENT OF THE THREE BASIC IDEAS I HAVE BEEN STRESSING. IT CALLS FOR TOUGH LAW ENFORCEMENT WORKING HAND-IN-HAND WITH SMART SOCIAL PROGRAMS AND LOCAL COMMUNITY ORGANIZATIONS. IT STIMULATES RATHER THAN STIFLES THE NATURAL RESOURCEFULNESS OF LOCAL COMMUNITIES. IT REINFORCES RATHER THAN REPLACES THE BASIC INSTITUTIONS OF SOCIETY: THE FAMILIES, THE CHURCHES, AND THE LOCAL COMMUNITY ASSOCIATIONS. IN SHORT, IT HELPS PEOPLE IN THE INNER CITIES TAKE CHARGE OF THEIR OWN COMMUNITIES.

THE WEED AND SEED STRATEGY IS ALSO COMPREHENSIVE. IT IS NOT JUST A NEW WAY TO THROW MONEY AT SOME OLD PROBLEMS. AND IT ISN'T JUST A POLICE SWEEP THROUGH A BAD NEIGHBORHOOD. THIS IS NOT A ONE-SHOT DEAL OR A QUICK FIX. IT COMBINES TOUGH, CONSISTENT LAW ENFORCEMENT, SMART, WELL-TARGETED FUNDING, AND THE NATURAL RESOURCEFULNESS OF GOOD NEIGHBORS. I THINK THIS IS A WINNING COMBINATION.

IT CAN RAISE THE STANDARDS AND EXPECTATIONS OF AN ENTIRE COMMUNITY. AND THE TONE OF A COMMUNITY -- THE SUM OF THE MESSAGES RADIATING FROM FAMILIES, FRIENDS, NEIGHBORS, AND CHURCHES -- IS ENORMOUSLY INFLUENTIAL. AS YOU KNOW, MOST AMERICANS NEVER COMMIT CRIME. ONE REASON FOR THIS IS THAT MOST OF THEM LIVE IN ENVIRONMENTS WHERE CRIME NEVER PRESENTS ITSELF AS A SERIOUS POSSIBILITY. IT DOESN'T EVEN OCCUR TO THEM. BUT IN SOME NEIGHBORHOODS, YOUNG CHILDREN ARE FACED WITH THIS TERRIBLE POSSIBILITY OVER AND OVER AGAIN, ON A DAILY BASIS, AND SOME GIVE IN. THIS IS A SHAME.

IN AMERICA TODAY, VIOLENCE AND CRIME OUGHT TO BE UNTHINKABLE -- AS INDEED THEY ARE FOR THE VAST MAJORITY OF AMERICANS. IN THE NEIGHBORHOODS TARGETED FOR THE WEED AND SEED PROGRAM, IT IS TIME TO RESTORE THE TABOO AGAINST VIOLENCE AND CRIME.

WE HAVE TO SET THE TONE FOR THE FUTURE BY BEATING VIOLENT CRIME TODAY. THE CITIZENS OF THE AMERICA'S INNER CITIES DESERVE TO BE SET FREE FROM THE GRIP OF CRIME. AND THE NEXT GENERATION IS DEPENDING ON US TO CREATE THE KIND OF NEIGHBORHOODS AND TOWNS WHERE A KID CAN GROW UP WITH CLEAR MORAL PRINCIPLES AND ALL THE BLESSINGS THAT EVERY AMERICAN CITIZEN DESERVES. THIS WILL REQUIRE THE COOPERATION OF ENTIRE COMMUNITIES. AS JOHN BAILEY, THE DIRECTOR OF WEED AND SEED IN TRENTON SAYS, "IT TAKES A WHOLE VILLAGE TO RAISE A CHILD."

JOHN IS RIGHT. CREATING SAFE, HEALTHY, THRIVING COMMUNITIES FOR OUR CHILDREN IS THE TASK BEFORE US. I AM GLAD THAT THE SOUTHERN CHRISTIAN LEADERSHIP CONFERENCE IS HERE TO HELP.

ONCE AGAIN, I WANT TO THANK YOU FOR ASKING ME TO SPEAK TO YOU TODAY. AND I WANT TO THANK YOU FOR THE GOOD YOU HAVE DONE AND FOR THE VITAL PART YOU ARE PLAYING IN THE REBIRTH OF AMERICA'S URBAN COMMUNITIES.

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August 11, 1992

Section: NATIONAL

ATTORNEY GENERAL HAILS SCLC'S DRUG CRUSADE

DARRELL HOLLAND PLAIN DEALER REPORTER

DAYTON

The Bush administration's top law enforcement officer spoke to a black group yesterday just after the group sang an old civil rights hymn that includes the line, "Ain't goin' to let no president turn us around."

It was as if the delegates to the annual convention of the Southern Christian Leadership Conference meeting here were communicating a message that they have not always been satisfied with the support the administration has given them in their struggle for human justice.

In fact, several speakers at the convention that began Sunday have criticized the administration's lack of support for programs that assist the poor, especially blacks. More criticism is expected before the convention ends tomorrow.

But U.S. Attorney General William P. Barr got a warm welcome from the delegates because of his commitment to programs to help inner-city communities.

Barr, 42, said SCLC's anti-drug program, Wings of Hope, was compatible with the \$500 million Weed and Seed federal program that Barr's Justice Department has spearheaded to aid America's poorest neighborhoods.

He said he expects the two programs will work together to help solve the nation's drug problems and rid urban neighborhoods of violence. He also said some of the Weed and Seed money could go to SCLC's anti-drug program.

Barr's suggestion that some the federal money could go to SCLC programs was welcomed by the Rev. Charles J. Matthews, pastor of Mount Sinai Baptist Church in Cleveland and president of the Cleveland SCLC chapter.

The Wings of Hope anti-drug crusade has been active in Cleveland for the last two years and Matthews said it would enhance SCLC efforts to rid the city of drugs and violence.

The Rev. Richard C. Dalton, a member of SCLC's national staff in Atlanta, praised the Cleveland Wings of Hope program as one of the finest in the nation.

Barr said his federal program is designed to organize social and economic forces in neighborhoods to solve the problems of drugs and violence and to foster greater cooperation between residents and the police.

He said it also includes enterprise zones that offer tax advantages to business leaders who establish new businesses in inner-city communities to promote economic development.

The program, Barr said, intends to rid urban communities of hard-core criminals and drug dealers and to develop neighborhoods "economically, socially and morally."

Noting that violence and crime plague the poorest neighborhoods, Barr told of visiting a government project in Chicago recently and speaking to a woman who told him she puts her children to bed in the bathtub to keep them safe from bullets.

"We can't allow our society to become inured to violence and can't consider any (human) wastage normal," he said.

He said the program also is designed to strengthen families and to foster the development of moral values in cooperation with religious groups.

Barr was criticized by some delegates for not doing enough to combat police brutality and for the lack of support by the Bush administration of the Brady gun-control bill now before Congress.

Barr said the Brady Bill would not keep guns out of the hands of criminals and said the president favors an anti-crime bill that may include the Brady Bill and limits the right of convicted criminals to appeal their cases endlessly.

The Rev. Benjamin F. Chavis Jr. of Cleveland, head of the Commission on Racial Justice of the United Church of Christ, also warned the 3,000 delegates about the injustices in black communities caused by the pollution of their environment by government policies.

"Our industrial policies place greater emphasis on profits than on protecting human life and promoting environmental justice which should be part of the civil rights movement," Chavis said.

Comedian Dick Gregory, a civil rights activist, told the delegates they are too willing to tolerate criminals and drug dealers in their neighborhoods.

And in an action that recalled the roots of SCLC, founded 35 years ago by the Rev. Dr. Martin Luther King Jr., the delegates marched through the streets of downtown Dayton to protest killing and crime in the nation's cities.

They also presented a special award to Rosa Parks, the black woman who refused to move to the back of bus in 1955 in Montgomery, Ala. Her refusal led to the founding of SCLC and to the civil rights movement led by King.

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---- **Index References** ----

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NewsRoom

REMARKS OF
WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES

TO THE KNIGHTS OF COLUMBUS
NEW YORK, NEW YORK

WEDNESDAY, AUGUST 5, 1992

Thank you. It is a great honor for me to speak to my fellow Knights of Columbus.

I am proud to be a Knight not only because of the countless good works performed by our order, but also because of the principles that we stand for and promote.

The Knights are a living testament to the immeasurable good that can come from a firm and active faith in God, an adherence to timeless Judeo-Christian values, and a desire to practice and promote these principles in our own lives as well as those of our families and communities.

I also want to say this: As a Catholic and as a Knight of Columbus, I am proud to serve as Attorney General to President George Bush. He is a man of conscience and courage, and he has never hesitated to defend the values we hold dear.

Today, the Knights are needed more than ever. We were founded in part to help Catholics resist the hostility of nativist persecution.

But now, more than a century later, I believe we face even a more hostile and insidious challenge.

I am speaking of the continuing erosion of the traditional moral values, upon which this country was founded and built.

As Attorney General, I have seen many of society's problems up close -- crime, drugs, broken families, disconnected youth, abused children.

And, as the President suggested this morning, the more you look at them, the more you see that the fundamental crisis we face in our society is a moral one. Over 200 years ago our Founding Fathers foresaw that this crisis would occur. They believed that free government had to be based on an underlying moral order.

For a Republic to work, they thought, the people had to be guided by inwardly-possessed and commonly shared moral values. The fate of free government would ultimately depend on the ability of the people to maintain their moral compass.

The Founders believed that the greatest threat to free government was what they called "licentiousness" -- the unbridled pursuit of personal appetites and self-gratification.

And so they viewed themselves as launching a great experiment:

Can a free people retain the self-discipline and values needed to restrain rampant individualism?

Or, would values erode, and the people ultimately sacrifice the good of the community to the pursuit of their own individual appetites?

Well, this experiment has gone on for over 200 years.

And we are still, in many ways, the "shining city on the hill" for the rest of the world.

And what has sustained us during these two centuries has been our commitment to our great moral heritage.

But, as the President said this morning, all around us we

see evidence that America's moral compass has gone awry.

It is undeniable that, since the mid-1960's, there has been a steady assault on traditional values.

We have lived through 25 years of permissiveness, sexual revolution, and the drug culture.

People have been encouraged to cast off conventional morality and old-fashioned restraints.

Moral tradition has given way to moral relativism.

Under this doctrine, there are no objective standards of right or wrong. Everything is relative and man has no ultimate purpose -- no end outside himself.

And so the object of human life becomes simply the pursuit of individual pleasure.

After 25 years of this moral upheaval, what can we say about its results?

Has it contributed to the sum total of human happiness? Are we collectively better off? Do we have a healthier society?

The prophets of this new age told us we would have a new era of peace, love, progress and happiness.

Our Lord warned us of false prophets and told us how to recognize them. He said "by their fruits, you shall know them."

Let us look at the fruits of this new age. All about us, we see a grim harvest:

- unprecedented violence;
- soaring juvenile crime;
- widespread drug addiction;

- record rates of venereal disease;
- an unremitting H.I.V. epidemic;
- record number of rapes;
- record psychiatric disorders.

And many of our young people -- even in the midst of material well-being -- seem to be sinking into loneliness and despair.

Teenage suicide has nearly tripled in just 20 years.

Barbara Bush recently gave a stark example of the changes that have occurred over the past few decades:

Not long ago, in a California school system, the top seven problems were listed as: talking out of turn; chewing gum; making noise; running in the halls; cutting in line; dress code violations; and littering.

By the 1980's, in the same school system, the top seven problems were drug abuse; alcohol abuse; pregnancy, suicide; rape; robbery and assault.

Perhaps the most significant feature of contemporary society has been the battering of the family, and its disintegration.

Today, in America, we have soaring illegitimacy rates. Today, almost 30% of children are born out of wedlock -- about a quadrupling in 25 years.

In many inner-city areas, the illegitimacy rate is as high as 80%. This has been substantially contributed to by government welfare programs that actually are structured to reward non-marriage and illegitimacy.

Today in America, we have the highest teenage pregnancy rates -- about double other industrialized countries.

And America also now has the highest divorce rates -- divorce is as common as marriage.

As a consequence of this, America, among the so-called advanced countries, has the highest percentage of children living in single-parent households.

- 60% of all children will live at least part of their childhood in a single parent home.

This breakdown of the family is particularly distressing because it is the family that is the principal institution by which we transmit moral values from generation to generation.

Unlike animals, human behavior and character is not hard-wired or instinctive. It is learned; it is inculcated.

It is mainly through family life and the parent-child relationship that young people are socialized and their moral character is formed.

As the family is weakened, so is our ability to transmit values to the next generation.

This weakening of the family comes at a time when the important backup institutions that are supposed to help transmit values -- schools and similar public institutions -- have lost their moral authority.

Over the past 25 years, public schools have undergone what amounts to a moral lobotomy.

Secularization has been taken to the point where you can no

longer have moral content in public institutions, -- they say public education must be value free.

Well, value free education, means value free kids.

As the President has said, "Whatever form our most pressing problems take -- ultimately, all are related to the disintegration of the family."

Take poverty, for example. Poverty in America is largely the result of the broken family. The incidence of poverty among two-parent families is extremely low.

The vast majority of the poor are single mothers and their children.

And take the problem of violent crime. The rise in violence in our society is directly related to the breakdown of the family.

Recent studies show that, far and away, the greatest single determinant of criminality is lack of family structure.

But the weakening of the family is not the only accomplishment of the secular revolution that we have witnessed over the past 25 years.

Nothing symbolizes the decadence of the secular age more than the stain of abortion. You can measure the moral health of a society by the way it treats its most weak and defenseless. Our society has taken to slaughtering the most innocent -- its own unborn children.

In 1962 planned parenthood put out a brochure stating "Abortion Kills Children."

Well, we have come a long way.

Today, the United States has the highest abortion rates of any western country.

About 1.5 million children are aborted each year.

Almost a third of these abortions are performed on teenagers.

Today alone, 4000 unborn children will be killed by abortion.

This is a moral catastrophe.

I could go on and on about the "fruits" of the new secular age, but I think the point is clear. The fruit is rotten. The effort to destroy the traditional moral order has brought on immense suffering, wreckage, and misery.

One philosopher defined a "fanatic" as someone who, in the face of clear failure, redoubles their efforts.

Well, by that definition, the secularists of today are clearly fanatics. Ignoring the tragic results of their experiment so far, they press on with even greater militancy.

There have been other times and places where the traditional moral order has been shaken, and societies have lapsed into periods of great licentiousness.

But I wonder whether we today are facing an unprecedented challenge.

In the past, societies -- like the human body -- seemed to have had a self-healing mechanism -- a self-corrective mechanism that gets things back on course if society goes too far adrift.

The opinion of decent people rebels. These people coalesce and rally against the obvious excess. Eternal truths are re-discovered.

This is the idea of the pendulum.

We have all thought: "Somehow the pendulum will naturally swing back."

But can we be sure?

Today, we face something different that may mean that we cannot count on the pendulum to just naturally swing back.

Today, we face the immense power of mass communications and popular culture -- the mass media, the entertainment industry, academia.

Today, I fear that the power and pervasiveness of our popular culture drowns out the scattered voices raised against secularization.

When those who seek to restore traditional morality stick their heads up, they suffer what amounts to a saturation bombing at the hands of the mass media.

Dissenters from secularist dogma are viciously attacked and held up to ridicule.

In addition to mass popular culture, I am concerned there is another modern phenomenon that suppresses society's self-corrective mechanisms -- that makes it harder for society to restore itself.

In the past, when societies deviate too far from sound moral principles, they end up paying such a high price that they

ultimately recoil and reevaluate the path they are on.

In other words, you cannot fool mother nature over the long run without paying a big price.

The great irony is that natural law -- conventional morality -- which secularists dismiss as superstitions -- are, in fact, the ultimate practical, utilitarian rules.

You and I know that traditional moral restraints -- taboos - - are not abstract rules conjured up by a kill-joy clergy.

They are there for a reason.

They reflect the rules that are best for man and the human community -- in the here and now.

So violations of the moral law have bad practical consequences for society.

H.I.V., venereal disease, is the price we pay, among others for sexual license.

Violent juvenile crime is a price we pay for the breakdown of the family.

So, in the past, societies have been driven back to their senses by the sheer cost of misconduct.

But today, something is new. The state -- which no longer sees itself as a moral institution, but as a secular one -- takes on the role as the alleviator of bad consequences. The state is called upon to remove the inconvenience and costs of misconduct.

So the reaction to H.I.V. and illegitimacy is not sexual responsibility but handing out condoms.

And the reaction to drug addiction is clean needles.

While we think we are solving problems we are actually subsidizing them. And by lowering the cost of misconduct, the government perpetuates it.

The corrosive impact on society continues. And, like most solutions that deal with symptoms rather than causes, it only makes matters worse.

How can we, as a society, regain our moral compass?

I've painted a bleak picture, but not to suggest that there is no hope. Instead, to suggest that we are not going to reclaim the moral heritage of our society without a fight.

We cannot sit back and just hope that somehow the pendulum is going to swing back toward sanity.

We are going to have to struggle to achieve the moral renewal of our country.

As Knights, we are committed to the Judeo-Christian values that have made our country great.

And we know that the first thing we have to do to renew our country is to ensure that we are putting our principles into practice in our own personal daily lives.

And that we are teaching those values to our children.

As Knights, we understand that only by transforming ourselves, can we transform the world outside ourselves.

At the same time, we must not hesitate to defend our values vigorously when they come under attack.

The Knights of Columbus is just the kind of organization our society needs.

We know that each single strand of a rope is weak and, by itself, can be broken. But woven together -- like the Knights of Columbus -- those strands become strong and unbreakable.

The whole history of the Knights shows how much we can accomplish by living our faith and practicing our principles.

We also know the power of prayer.

By remaining true to our ideas of charity, unity, fraternity, patriotism, and defense of the priesthood, I am confident we will have our ultimate victory.

- God bless the Reverend Clergy.
- God bless Father McGivney for his vision.
- God Bless the Knights of Columbus.
- God bless you all.

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Department of Justice

REMARKS OF

**WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES**

**CONGRESS OF CORRECTIONS
AMERICAN CORRECTIONAL ASSOCIATION**

**AUGUST 3, 1992
SAN ANTONIO, TEXAS**

KEYNOTE REMARKS OF WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES
CONGRESS OF CORRECTIONS
AMERICAN CORRECTIONAL ASSOCIATION
AUGUST 3, 1992

IT IS AN HONOR TO BE HERE WITH YOU TODAY.

YOUR MISSION IS ONE OF THE MOST DIFFICULT, UNDER-RECOGNIZED,
AND UNDER-APPRECIATED THERE IS IN GOVERNMENT TODAY.

YET IT IS IMMENSELY IMPORTANT, BECAUSE YOU HELP PROTECT THE
VERY FABRIC OF LAW AND ORDER IN OUR SOCIETY.

ANY THINKING PERSON WOULD BE SOBERED CONTEMPLATING THE TASK
YOU CARRY OUT EACH DAY.

NOT ONLY DO YOU CONFINE SOME OF THE MOST VIOLENT, DANGEROUS
INDIVIDUALS IN HISTORY, BUT YOU DO SO IN A HUMANE WAY THAT
ASSURES THEIR SAFETY, AS WELL AS THAT OF STAFF AND THE PUBLIC.

NOT ONLY DO SOME OF YOU MANAGE UP TO TWICE AS MANY INMATES
AS YOUR INSTITUTIONS WERE DESIGNED TO HOLD, BUT YOU ARE DOING SO
WITH LITTLE OR NO DISRUPTION OF DAILY ROUTINES.

YOU CAN BE PARTICULARLY PROUD OF THE JOB YOU DO. AND YOU
CAN BE EQUALLY PROUD OF ACA'S CENTRAL ROLE IN OUR CRIMINAL

JUSTICE SYSTEM; THIS ORGANIZATION IS THE PRE-EMINENT FORCE IN CORRECTIONAL IMPROVEMENT AND REFORM TODAY.

ACA CARRIES THE STANDARD FOR HUMANE, DECENT TREATMENT OF OFFENDERS AT EVERY LEVEL OF THE CORRECTIONAL SYSTEM.

AND SO THE FIRST THING I WANT TO DO THIS MORNING, ON BEHALF OF THE ENTIRE U.S. DEPARTMENT OF JUSTICE -- AND THE NATION AS A WHOLE -- IS TO THANK YOU FOR A JOB WELL DONE.

I.

THERE ARE TWO MAIN SUBJECTS I WOULD LIKE TO DISCUSS WITH YOU TODAY: THE FIRST IS THE IMPORTANCE TO SOCIETY OF BOTH SUFFICIENT PRISON SPACE FOR CHRONIC VIOLENT OFFENDERS AND AN EFFECTIVE RANGE OF INTERMEDIATE SANCTIONS FOR NON-VIOLENT OFFENDERS. AND THIS APPLIES FOR BOTH ADULT AND JUVENILE OFFENDERS. AND THE SECOND INVOLVES SOME OF THE THINGS WE ARE DOING AT THE FEDERAL LEVEL TO TRY TO HELP THE STATES MEET THEIR CORRECTIONAL OBLIGATIONS.

THE SCOPE OF THE PROBLEM WE ARE FACING IS SOBERING:

TODAY, IN THE UNITED STATES THERE ARE OVER 4 MILLION MEN AND WOMEN UNDER SOME FORM OF CORRECTIONAL CONTROL, ABOUT A THIRD OF WHOM -- SOME 1.3 MILLION -- ARE INCARCERATED IN OUR JAILS AND PRISONS; THE REMAINING, ALMOST 3 MILLION MORE ARE INVOLVED IN

SOME FORM OF NON-CUSTODIAL CONTROL OR AN INTERMEDIATE SANCTION PROGRAM OF SOME TYPE.

AND, I THINK IT IS CLEAR THAT WE NEED ADDITIONAL CAPACITY IN BOTH AREAS.

II.

LET ME TURN FIRST TO THE QUESTION OF ADEQUATE PRISON SPACE.

TO PUT THIS ISSUE IN THE APPROPRIATE CONTEXT, THERE IS, UNQUESTIONABLY, TOO MUCH CRIME AND TOO MUCH VIOLENCE IN AMERICA TODAY.

AS I TRAVEL ACROSS THE COUNTRY, IT IS TRAGIC TO SEE SO MANY OF OUR PEOPLE LITERALLY LIVING BEHIND BARS, AFRAID TO LEAVE THEIR HOMES, FEARFUL OF CRIMINALS WHO ARE SEEMINGLY FREE TO ROAM THE STREETS.

WELL, THE FOCUS OF THIS ADMINISTRATION AND THIS JUSTICE DEPARTMENT HAS BEEN TO DO EVERYTHING IN OUR POWER TO CHANGE THIS SHAMEFUL STATE OF AFFAIRS.

WE ARE COMMITTED TO ATTACKING AS AGGRESSIVELY AS POSSIBLE THE VIOLENT CRIME THAT PLAGUES SO MANY OF OUR NEIGHBORHOODS, ESPECIALLY IN OUR INNER CITIES.

IN MY VIEW, A CRITICAL PART OF THE SOLUTION TO THIS PROBLEM IS PROVIDING ENOUGH PRISON SPACE FOR CHRONIC, VIOLENT OFFENDERS.

I FIRMLY BELIEVE THAT THE BEST WAY TO MAKE SIGNIFICANT REDUCTIONS IN CRIME IN OUR LIFETIMES IS TO LOCK UP REPEAT VIOLENT OFFENDERS.

STUDY AFTER STUDY CONFIRMS WHAT EVERY LAW ENFORCEMENT PROFESSIONAL KNOWS -- A LARGE PROPORTION OF VIOLENT CRIME IN OUR COUNTRY IS COMMITTED BY A RELATIVELY SMALL GROUP OF INDIVIDUALS WHO HAVE CHOSEN A LIFE OF CRIME.

THESE OFFENDERS TYPICALLY START COMMITTING CRIMES WHEN THEY ARE JUVENILES AND KEEP ON COMMITTING CRIMES THROUGHOUT THEIR ADULT YEARS.

THEY COMMIT CRIMES WHEN THEY ARE ARRESTED AND RELEASED BEFORE TRIAL; WHEN THEY ARE GIVEN PROBATION INSTEAD OF A PRISON TERM; AND WHEN THEY ARE LET OUT OF PRISON ON PAROLE OR EARLY RELEASE.

IN SHORT, WHENEVER THEY ARE ON THE STREET THEY ARE COMMITTING CRIMES.

THERE IS NO ACCEPTABLE RESPONSE FROM US OTHER THAN TO ENSURE

THIS GROUP OF HARDENED CRIMINALS IS EFFECTIVELY AND EFFICIENTLY INCAPACITATED.

THAT IS THE OBLIGATION WE IN GOVERNMENT HAVE TOWARD OUR CITIZENS -- INDEED THAT IS THE FIRST OBLIGATION OF ANY RESPONSIBLE GOVERNMENT.

AND IT IS OUR OBLIGATION AS A SOCIETY TO ENSURE THAT WE HAVE SUFFICIENT PRISON CAPACITY TO INCARCERATE THESE CRIMINALS AND PROTECT SOCIETY.

THE STATISTICS ON THE AVERAGE SENTENCES ACTUALLY SERVED FOR CRIMES IN THIS COUNTRY ARE A NATIONAL DISGRACE. ALTHOUGH SENTENCED TO 15 YEARS IMPRISONMENT, THE AVERAGE MURDERER SERVES LESS THAN SIX YEARS. AND ALTHOUGH SENTENCED TO EIGHT YEARS, THE AVERAGE RAPIST IS BACK ON THE STREETS IN ONLY THREE. THINK ABOUT IT, THE PENALTY FOR RAPE -- ONE OF THE MOST BRUTAL CRIMES IMAGINABLE, AND ONE WITH A HIGH DEGREE OF RECIDIVISM -- IS ONLY THREE YEARS IN PRISON.

A MAJOR FACTOR CONTRIBUTING TO THE EARLY RELEASE OF CRIMINALS IN MANY STATES IS THE LACK OF PRISON CAPACITY.

WHEN VIOLENT CRIMINALS ARE RELEASED BEFORE THEIR FULL SENTENCES ARE SERVED BECAUSE OF A SHORTAGE OF PRISON SPACE, WE NOT ONLY WASTE THE RESOURCES USED TO CATCH AND PROSECUTE THEM;

AND REDUCE THE DETERRENT EFFECT OF PUNISHMENT; WE ALSO CHEAT OUR CITIZENS.

THE COSTS IMPOSED ON SOCIETY BY PREMATURELY RELEASED CRIMINALS ARE STAGGERING: 30% OF ALL MURDERS; 25% OF RAPES; NEARLY 40% OF ROBBERIES; UNTOLD BILLIONS IN DIRECT AND INDIRECT COSTS; AND THE INCALCULABLE COSTS OF A LOST FEELING OF SAFETY AND THE DESTRUCTIONS OF COMMUNITIES.

ANY PERSON VICTIMIZED BY A CRIMINAL WHO SHOULD STILL HAVE BEEN IN PRISON SERVING A SENTENCE FOR AN EARLIER CRIME IS JUSTIFIED IN FEELING THAT THE CRIMINAL JUSTICE SYSTEM HAS BETRAYED HIM.

THE ONLY ACCEPTABLE SOLUTION IS TO PROVIDE THE PRISON SPACE NEEDED TO INCAPACITATE VIOLENT OFFENDERS.

WE HAVE DONE MUCH ON THE FEDERAL LEVEL TO INCREASE OUR PRISON CAPACITY. THE BUDGET OF THE BUREAU OF PRISONS HAS INCREASED 470% FROM 1981 TO 1992. AND WE HAVE INCREASED CAPACITY OVER 60% SINCE 1988, ON THE WAY TO OVER A 200% INCREASE.

AND I WILL HAVE MORE TO SAY LATER ABOUT SOME OF THE THINGS WE ARE DOING TO HELP THE STATES. BUT WE, AS A SOCIETY, SIMPLY MUST DEVOTE THE RESOURCES NECESSARY TO INCARCERATE REPEAT,

VIOLENT OFFENDERS. THE COST OF FAILING TO DO SO ARE UNACCEPTABLY HIGH.

III.

BUT PRISON SPACE, ALONE, IS NOT ENOUGH. NOT EVERYONE WHO COMMITS A CRIME -- EVEN A VIOLENT CRIME -- AUTOMATICALLY REQUIRES LENGTHY INCARCERATION.

SOME OF THE PEOPLE WHO COMMIT VIOLENT CRIMES ARE NOT HABITUAL CRIMINALS.

SOMETIMES PEOPLE MAKE A MISTAKE AND GET INTO A BRUSH OR TWO WITH THE LAW (AN ISOLATED THEFT, AN ASSAULT) AND THEN STRAIGHTEN OUT.

SOMETIMES, OTHERWISE LAW-ABIDING CITIZENS ACT SUDDENLY AND EXPLOSIVELY, MAYBE IN THE HEAT OF PASSION, AND COMMIT A VIOLENT CRIME -- EVEN A SERIOUS VIOLENT CRIME.

THIS IS WHERE INTERMEDIATE PUNISHMENTS CAN PLAY AN IMPORTANT ROLE. IF WE HAVE THE TOOLS TO ACCURATELY IDENTIFY NON-DANGEROUS OFFENDERS, THEY CAN BE PLACED INTO LESS COSTLY INTERMEDIATE PUNISHMENT PROGRAMS, KEEPING OUR PRISON BEDS FOR VIOLENT, REPEAT OFFENDERS.

BETWEEN THE STREETS AND PRISON, THERE IS AN AREA OF INTERMEDIATE, OR COMMUNITY SANCTIONS, AND THIS IS AN AREA WHERE WE NEED TO LOOK FOR OTHER OPTIONS.

THIS IS AN AREA IN WHICH A GREAT MANY OF YOU HAVE BEEN LEADING, BY DEVELOPING TOOLS TO ACCURATELY IDENTIFY NON-DANGEROUS OFFENDERS, AND BY DEVELOPING PROGRAMS OF EFFECTIVE INTERMEDIATE SANCTIONS FOR THEM.

I'M TALKING ABOUT A WIDE RANGE OF PROGRAMS THAT GREATLY LIMIT OFFENDER FREEDOM, BUT ARE OPERATED IN THE COMMUNITY OR OTHER SETTINGS OUTSIDE TRADITIONAL PRISONS -- PROGRAMS THAT ALLOW OFFENDERS TO WORK DURING THE DAY TO SUPPORT THEIR FAMILY AND PAY FOR THEIR ROOM AND BOARD IN THE FACILITY, BUT WHICH REQUIRE THEM TO STAY IN THE FACILITY DURING NON-WORKING HOURS.

PROGRAMS SUCH AS THE BUREAU OF PRISONS' INTENSIVE CONFINEMENT CENTERS AT LEWISBURG, PENNSYLVANIA AND BRYAN, TEXAS, AND STATE AND COUNTY LEVEL PROGRAMS, SUCH AS THE ONE I VISITED RECENTLY IN HARRIS COUNTY, TEXAS.

PROGRAMS SUCH AS MANDATORY PUBLIC WORKS PROJECTS AND COOPERATIVE AGREEMENTS WITH OTHER AGENCIES TO PROVIDE BADLY-NEEDED LABOR ON PUBLIC LANDS AND PROPERTIES.

PROGRAMS SUCH AS ELECTRONICALLY-MONITORED HOME CONFINEMENT, WHICH IS OPERATING ON A FORMAL BASIS IN 14 FEDERAL JUDICIAL DISTRICTS TODAY AND IN NUMEROUS STATE AND LOCAL JURISDICTIONS.

PROGRAMS SUCH AS THESE ARE THE VANGUARD OF A NEW ERA IN CORRECTIONS -- AN ERA OF INCREASED DIVERSIFICATION IN SANCTIONING.

ACA HAS PLAYED A LEADERSHIP ROLE IN THIS AREA, AND WE NEED YOUR CONTINUED EFFORTS HERE AS WELL.

IV.

THERE IS THE SAME NEED FOR THE FULL RANGE OF SANCTIONS WHEN IT COMES TO JUVENILE OFFENDERS.

AND, GIVEN THE IMPORTANCE OF THE JUVENILE JUSTICE SYSTEM, I WOULD LIKE TO SPEND A FEW MINUTES DISCUSSING IT AS WELL. FOR I BELIEVE THAT THE SINGLE GREATEST DETERMINANT OF FUTURE LEVELS OF CRIME IS OUR SUCCESS OR FAILURE IN DEALING WITH JUVENILE OFFENDERS.

I BELIEVE THAT THE NATION'S JUVENILE JUSTICE SYSTEM IS IN NEED OF FUNDAMENTAL CHANGE.

I KNOW THAT PRESIDENT CORROTHERS HAS A SPECIAL CONCERN IN THIS AREA, PARTICULARLY IN INTERVENING EARLY IN THE PROCESS OF

DETERIORATION THAT LEADS FAR TOO MANY YOUNG PEOPLE INTO A LIFE OF CRIME, AND I APPLAUD THE EFFORTS SHE HAS MADE TO BRING THIS ISSUES TO THE FOREFRONT.

MANY OF YOU STARTED IN CORRECTIONS TWO, EVEN THREE, DECADES AGO, WHEN JUVENILE CRIME CONSISTED OF JOY-RIDING IN STOLEN CARS AND RUNAWAYS FROM HOME, WITH THE OCCASIONAL BURGLAR OR STRONG-ARM CASE.

TODAY, JUVENILE CRIME HAS GROWN UP. THE REFORMATORIES OF OUR NATION REFLECT THE FULL PANOPLY OF CRIMES.

INDEED, JUVENILES ARE THE FAVORED AGENTS FOR A GREAT DEAL OF ILLEGAL ACTIVITY IN GANGS AND DRUG ORGANIZATIONS PRECISELY BECAUSE EVERYONE KNOWS HOW LENIENTLY THEY ARE DEALT WITH.

THE LONG-TERM SOLUTION TO THE PROBLEM OF JUVENILE CRIME FALLS LARGELY OUTSIDE THE LAW ENFORCEMENT SYSTEM. IT REQUIRES STRENGTHENING THOSE BASIC INSTITUTIONS -- THE FAMILY, SCHOOLS, RELIGIOUS INSTITUTIONS, AND COMMUNITY GROUPS -- THAT ARE RESPONSIBLE FOR INSTILLING VALUES AND CREATING LAW-ABIDING CITIZENS.

FROM THE LAW ENFORCEMENT STANDPOINT, HOWEVER, WE MUST DEAL BETTER WITH TWO GROUPS OF JUVENILES. THE LARGER GROUP HAVE ONLY ONE OR TWO BRUSHES WITH THE LAW AND THEN STRAIGHTEN OUT AS THEY

MATURE. THE SECOND, SMALLER GROUP ARE HARDENED, CHRONIC OFFENDERS WHO COMMIT THE MAJORITY OF ALL VIOLENT JUVENILE CRIME.

WITH RESPECT TO THE FIRST, LARGER GROUP, THE JUVENILE JUSTICE SYSTEM MUST BE BETTER DESIGNED TO DETER THESE YOUTHS FROM COMMITTING ADDITIONAL CRIMES. THE GOAL IS TO PREVENT THEM FROM BECOMING CHRONIC OFFENDERS. THE BEST WAY TO ACCOMPLISH THIS IS BY IMPOSING TOUGH, SMART SANCTIONS DESIGNED TO INSTILL THE VALUES OF DISCIPLINE AND RESPONSIBILITY NECESSARY TO PREVENT FURTHER CRIMINALITY. SUCH PUNISHMENT ACTUALLY BENEFITS THE JUVENILE MORE THAN LENIENT OR NO SANCTIONS. EXCESSIVE LENIENCY TEACHES THE PERVERSE MESSAGE THAT CRIME MAY INDEED PAY. A JUVENILE JUSTICE SYSTEM THAT IS TOO LENIENT CAN BECOME A CONVEYOR BELT FOR CAREER CRIMINALS.

STATES NEED A RANGE OF SANCTIONS DESIGNED TO INSTILL DISCIPLINE AND RESPONSIBILITY TO DETER JUVENILES FROM FURTHER CRIMINALITY. SANCTIONS SUCH AS BOOT CAMPS AND HIGHLY STRUCTURED COMMUNITY SERVICE OR PUBLIC WORKS PROGRAMS.

AS TO THE SMALLER GROUP OF REPEAT, VIOLENT JUVENILE OFFENDERS, THE CHALLENGE FOR THE JUVENILE JUSTICE SYSTEM IS DIFFERENT. FOR THIS GROUP, THE GOALS IS TO IDENTIFY AND INCAPACITATE THEM THROUGH EXTENDED PERIODS OF INCARCERATION. THESE CRIMINALS ARE AS HARDENED AS ANY ADULTS, AND MUST BE TREATED ACCORDINGLY.

V.

IN ORDER TO SECURE THE NECESSARY RESOURCES IN BOTH THE JUVENILE AND ADULT ARENAS, WE NEED TO DO A BETTER JOB OF GETTING THE MESSAGE TO THE PUBLIC.

AND HERE, TOO, ACA HAS A CRITICAL ROLE TO PLAY.

WE MUST WORK TOGETHER TO GET CERTAIN SIMPLE, BUT IMPORTANT, FACTS ACROSS. NAMELY, WE MUST EXPLAIN TO THE PUBLIC:

* THAT INCAPACITATING VIOLENT OFFENDERS SAVES THE LIVES OF THOUSANDS OF INNOCENT VICTIMS AND CAN REDUCE THE LEVELS OF CRIME AND VIOLENCE IN OUR SOCIETY.

* THAT PUTTING DRUG DEALERS BEHIND BARS STOPS THEM FROM PURVEYING THEIR FILTH TO THE CHILDREN OF OUR NATION.

* THAT BUILDING MORE PRISONS IS NOT ONLY THE MORALLY RIGHT THING TO DO, IT IS ALSO THE ECONOMICALLY RIGHT THING TO DO. THE COSTS OF INCARCERATING A CHRONIC OFFENDER ARE FAR LOWER THAN THE COSTS IMPOSED ON SOCIETY IF HE REMAINS AT LARGE, COMMITTING MORE CRIMES.

* THAT, IN APPROPRIATE CASES, INTERMEDIATE SANCTIONS CAN

PROTECT THE PUBLIC WHILE SAVING PUBLIC FUNDS AND BENEFITTING PROPERLY MOTIVATED OFFENDERS.

* THAT TOUGH, SMART JUVENILE SANCTIONS CAN SAVE MOST JUVENILE OFFENDERS FROM A LIFE OF CRIME. AT THE SAME TIME, WE MUST BE PREPARED TO TAKE TOUGH STEPS TO PROTECT SOCIETY FROM THOSE JUVENILES WHO HAVE SHOWN THEY ARE COMMITTED TO A CAREER OF VIOLENCE.

ACA PROVIDES A STRONG VOICE FOR CORRECTIONS ON ISSUES SUCH AS THESE -- A VOICE THAT CAN BE USED TO GOOD EFFECT AS WE WORK TOGETHER TO MEET THE CHALLENGES OF THE 1990'S.

VI.

BEFORE I MOVE ON TO SOME OF THE STEPS WE ARE TAKING TO HELP STATES MEET THEIR CORRECTIONAL OBLIGATIONS, LET ME BRIEFLY ADDRESS A POINT THAT I KNOW MUST BE ON SOME OF YOUR MINDS -- NAMELY THAT THE CORRECTIONS SYSTEM IS NOT A "SILVER BULLET" SOLUTION TO THE CRIME PROBLEM.

NO ONE -- LEAST OF ALL THOSE OF US IN LAW ENFORCEMENT -- BELIEVE THAT WE CAN SOLVE THE PROBLEM OF CRIME IN THIS COUNTRY SIMPLY BY LOCKING PEOPLE UP OR PUTTING THEM INTO INTERMEDIATE SANCTIONS PROGRAMS.

OBVIOUSLY, WE HAVE TO DEAL WITH THE UNDERLYING CAUSES OF CRIME. AND, ALTHOUGH IT IS NOT THE SUBJECT OF MY SPEECH TODAY, LET ME JUST BRIEFLY MENTION TWO POINTS.

THE FIRST IS THAT TO A LARGE EXTENT IT IS INSTITUTIONS OUTSIDE THE GOVERNMENT THAT HAVE THE CRUCIAL ROLE TO PLAY. FIRST AND FOREMOST IS, OF COURSE, THE FAMILY, WHICH, UNFORTUNATELY, IS IN REAL TROUBLE IN AMERICA TODAY. RELIGIOUS INSTITUTIONS AND COMMUNITY GROUPS ALSO HAVE A CRITICAL ROLE TO PLAY IN INSTILLING THE VALUES NECESSARY FOR OUR CHILDREN TO GROW INTO RESPONSIBLE, LAW ABIDING ADULTS.

THIS IS NOT TO SAY THAT GOVERNMENT DOES NOT HAVE A ROLE TO PLAY. PROPERLY STRUCTURED PROGRAMS CAN BE IMPORTANT IN HELPING PROVIDE OPPORTUNITY. BUT WE MUST MAKE SURE THAT NOTHING WE ARE DOING ACTUALLY HURTS THESE VITAL NON-GOVERNMENTAL INSTITUTIONS.

UNFORTUNATELY, WE HAVE ALL TOO OFTEN BROKEN THE FIRST RULE -- DO NO HARM. MANY OF OUR PROGRAMS HAVE HAD PERVERSE EFFECTS ON THE FAMILY.

AND, WE HAVE TO RECOGNIZE THAT SOCIAL PROGRAMS ARE NOT A SUBSTITUTE FOR TOUGH LAW ENFORCEMENT. WE CANNOT HOPE TO MAKE PROGRESS IN THE MIDST OF CRIME, VIOLENCE AND CHAOS.

THE ANSWER IS TO RECOGNIZE THAT NEITHER LAW ENFORCEMENT NOR SOCIAL PROGRAMS CAN DO THE JOB ALONE. RATHER, WE MUST MARRY TOGETHER TOUGH LAW ENFORCEMENT -- WHICH CREATES THE ATMOSPHERE IN WHICH SOCIAL PROGRAMS CAN TAKE HOLD -- WITH APPROPRIATE PROGRAMS THAT CREATE OPPORTUNITY -- TO ALLOW PEOPLE TO RECLAIM THEIR COMMUNITIES, GET JOBS, AND BUILD BETTER LIVES.

THIS IS THE POINT OF THE PRESIDENT'S WEED AND SEED PROGRAM. AND THE TREMENDOUS RESPONSE IT IS GETTING ACROSS THE COUNTRY SHOWS, I THINK, THAT WE HAVE STRUCK A REAL CHORD WITH THE AMERICAN PEOPLE.

VII.

LET ME TURN NOW TO SOME OF THE CONCRETE THINGS WE ARE DOING, AND CAN DO, TO HELP STATES IN THE CORRECTIONS AREA.

LET ME ACKNOWLEDGE AT THE OUTSET THAT WE ARE NOT TALKING ABOUT PROVIDING SIGNIFICANT NEW MONEY TO THE STATES. THESE ARE EXTREMELY TIGHT BUDGETARY TIMES FOR THE FEDERAL GOVERNMENT AS WELL AS THE STATES. IT IS, HOWEVER, A QUESTION OF PRIORITIES, AND WE MUST RECOGNIZE THE CORRECTIONAL SYSTEM FOR THE HIGH PRIORITY THAT IT IS. DESPITE THE TIGHT FEDERAL BUDGET, PRESIDENT BUSH HAS PROVIDED SIGNIFICANT INCREASES IN RESOURCES FOR LAW ENFORCEMENT AND CORRECTIONS, AND IT IS INCUMBENT UPON THE STATES TO DO THE SAME.

THERE ARE, HOWEVER, AREAS IN WHICH WE CAN PROVIDE HELP. WE ARE ASSISTING STATES AND LOCALITIES TO CONSTRUCT AND OPERATE PRISONS AND INTERMEDIATE SANCTIONS MORE EFFECTIVELY AND EFFICIENTLY; TO ALLEVIATE IMPROPER COURT INTERFERENCE WITH PRISON OPERATIONS; AND TO REDUCE THE NUMBER OF ILLEGAL ALIENS IN OUR PRISONS.

A.

THE DEPARTMENT OF JUSTICE IS UNIQUELY POSITIONED TO HELP OTHER LEVELS OF GOVERNMENT BOTH AS A LEADER IN DEVELOPING NEW WAYS OF BUILDING AND OPERATING PRISONS, AND ALSO AS A CLEARINGHOUSE TO SHARE THE IDEAS DEVELOPED BY OTHERS. AND I AM COMMITTED TO DOING EVERYTHING WE CAN TO HELP IN THIS AREA.

I HAVE DIRECTED THE NATIONAL INSTITUTION OF CORRECTIONS AND OTHER JUSTICE ASSISTANCE COMPONENTS TO EXPAND THEIR EXISTING CLEARINGHOUSE FUNCTIONS REGARDING PRISON CONSTRUCTION.

WE ALSO ARE ASSISTING IN THE PROCESS OF MAKING CLOSED MILITARY BASES AND OTHER SURPLUS FEDERAL PROPERTIES AVAILABLE TO STATES AND LOCALITIES FOR USE AS PRISONS.

B.

CLOSELY RELATED TO THIS INITIATIVE IS THE THRUST TOWARD MAKING EXISTING AND NEW PRISONS MORE OPERATIONALLY EFFICIENT.

THAT IS RELATED TO A PROBLEM WE ALL WILL FACE IN THE FUTURE -- AS ADMINISTRATORS AND AS TAXPAYERS -- NOT SIMPLY FUNDING THE CONSTRUCTION OF ADDITIONAL PRISON CAPACITY, BUT RATHER FUNDING THE CONTINUING COSTS OF THEIR OPERATION. THIS PROBLEM IS ESPECIALLY CRITICAL GIVEN THAT OPERATING COSTS CONSTITUTE MORE THAN 95% OF THE LIFETIME COSTS OF A PRISON.

IT CURRENTLY COSTS AN AVERAGE OF ABOUT \$20,000 PER YEAR TO HOUSE AN INMATE IN AN AMERICAN PRISON. IN SOME CASES, THESE COSTS CAN RISE BY A FACTOR OF TWO OR THREE, FOR SPECIAL NEEDS OFFENDERS OR THOSE WHO REQUIRE PARTICULARLY HIGH SECURITY MEASURES.

WE NEED TO BE ABLE TO SHOW WE ARE DOING EVERYTHING POSSIBLE TO KEEP COSTS AS LOW AS POSSIBLE WITHOUT JEOPARDIZING PUBLIC SAFETY. IN ADDITION TO MORE TRADITIONAL WAYS TO RUN PRISONS MORE EFFICIENTLY, IDEAS SUCH AS PRISONER WORK PROGRAMS AND USER FEES NEED TO BE AGGRESSIVELY EXPLORED.

THE SAME IS TRUE FOR THE DEVELOPMENT AND OPERATION OF INTERMEDIATE SANCTIONS. THIS IS AN AREA OF LONGSTANDING INTEREST

TO THE DEPARTMENT. AS MANY OF YOU WILL RECALL, IT WAS THE SUBJECT OF A 1990 CONFERENCE WE SPONSORED AND ALSO A MAJOR TOPIC AT THE CORRECTIONS SUMMIT I HELD EARLIER THIS YEAR. AND SEVERAL JUSTICE DEPARTMENT COMPONENTS ARE ACTIVELY INVOLVED IN PROMOTING THESE PROGRAMS.

AGAIN, WE ARE COMMITTED TO SERVING AS A CLEARINGHOUSE FOR IDEAS AND TO DOING WHATEVER WE CAN TO SHARE OUR EXPERTISE AND THE EXPERIENCE OF OTHERS. ACA, OF COURSE, HAS A CRITICAL ROLE TO PLAY IN THIS PROCESS.

C.

I DON'T HAVE TO TELL YOU ABOUT THE INHERENT DIFFICULTIES IN RUNNING A PRISON SYSTEM.

BUT UNFORTUNATELY, THE ABILITY OF MANY STATES TO MANAGE THEIR OWN PRISONS EFFICIENTLY HAS BEEN HAMPERED BY UNNECESSARY ADDITIONAL DIFFICULTIES. I AM REFERRING TO THE MICROMANAGEMENT OF PRISON SYSTEMS BY SOME COURTS.

AS YOU KNOW, USING A VAGUE "TOTALITY OF CIRCUMSTANCES" OR "OVERALL CONDITIONS" STANDARD, MANY COURTS ESSENTIALLY TOOK OVER STATE PRISONS, SPECIFYING THE PARTICULARS OF PRISONERS' DIETS, EXERCISE, VISITATION RIGHTS AND HEALTH CARE; SOME EVEN WENT SO

FAR AS TO REQUIRE COURT APPROVAL OF THE DESIGN PLANS FOR NEW PRISONS.

AND, MOST BURDENSOME OF ALL, SOME COURTS -- THROUGH ORDER OR CONSENT DECREE -- IMPOSED CAPS ON THE POPULATION OF STATE AND LOCAL FACILITIES, RESULTING IN PREMATURE RELEASE OF DANGEROUS CRIMINALS AND MORE CRIME AND VIOLENCE.

THIS JANUARY, I ANNOUNCED NEW GUIDELINES TO GOVERN THE JUSTICE DEPARTMENT'S INVOLVEMENT IN PRISON LITIGATION, THAT WILL REDUCE THIS BURDEN ON THE STATES.

WE HAVE ALREADY ACTED IN TEXAS, MICHIGAN AND PHILADELPHIA TO TRY TO LIFT COURT-ORDERED POPULATION CAPS. WHILE WE ARE COMMITTED TO PROTECTING THE CONSTITUTIONAL RIGHTS OF INMATES, WE ARE EQUALLY COMMITTED TO HELPING THE STATES FREE THEMSELVES FROM UNNECESSARY COURT INTERFERENCE IN THEIR PRISON OPERATIONS.

D.

THERE IS ONE CATEGORY OF INMATE OVER WHICH WE HAVE SOME LATITUDE IN TERMS OF POPULATION CONTROL -- ILLEGAL ALIENS.

TWENTY-FOUR PERCENT OF THE FEDERAL PRISON POPULATION ARE NON-U.S. CITIZENS. AND STATES LIKE TEXAS, CALIFORNIA, FLORIDA,

AND OTHERS HAVE MAJOR PROPORTIONS OF ALIENS IN THEIR PRISON POPULATION.

WE COULD FREE UP OVER 16,000 BEDS IN THE BUREAU OF PRISONS ALONE IF WE WERE ABLE TO REMOVE THOSE CRIMINALS WHO ARE NOT CITIZENS, MANY OF WHOM HAVE NO RIGHT TO BE IN OUR COUNTRY AT ALL.

TO ADDRESS THIS PROBLEM, I AM PURSUING A FOUR PRONGED ATTACK.

FIRST, WE HAVE RECENTLY STEPPED UP ENFORCEMENT EFFORTS TO STOP ILLEGAL ALIENS AT THE BORDER AND TO APPREHEND AND RAPIDLY DEPORT THOSE WHO HAVE MADE IT IN.

SECOND, WE ARE PROPOSING LEGISLATION THAT WOULD ALLOW THE IMMIGRATION AND NATURALIZATION SERVICE TO EXCLUDE SUMMARILY ILLEGAL ALIENS WHO SHOW UP AT OUR BORDERS.

THIRD, WE ARE CONSIDERING WAYS TO PERMIT MODEST REDUCTIONS IN SENTENCE IN RETURN FOR ALIENS AGREEING TO DEPORTATION, AND WE WILL BE PROPOSING LEGISLATION TO ALLOW THE FEDERAL GOVERNMENT AND THE STATES TO TRANSFER ILLEGAL ALIENS IN THEIR PRISONS TO THEIR OWN COUNTRIES TO SERVE OUT THEIR SENTENCE.

AND FOURTH, WE ARE TAKING A NUMBER OF ADMINISTRATIVE STEPS TO TARGET CRIMINAL ALIENS AND TO SPEED UP THEIR DEPORTATION. AN

IMPORTANT EXAMPLE IS INS' INSTITUTIONAL HEARING PROGRAM, IN WHICH ALIENS ARE PROCESSED WHILE STILL IN PRISON TO ALLOW RAPID DEPORTATION.

VIII.

I WOULD BE REMISS IF I DID NOT TAKE A FEW MINUTES BEFORE CONCLUDING TO RECOGNIZE THE TREMENDOUS CONTRIBUTION ACA HAS MADE IN THE CORRECTIONS FIELD. ACA HAS BEEN A CHAMPION OF CORRECTIONAL REFORM SINCE ITS INCEPTION.

INDEED, THE ACCREDITATION MOVEMENT THAT ACA HAS SPEARHEADED SHOWS HOW VOLUNTARY ADOPTION OF HIGH PROFESSIONAL STANDARDS CAN BRING ABOUT SIGNIFICANT POSITIVE CHANGE IN A RELATIVELY SHORT TIME.

FROM A ZERO BASE IN 1978, TODAY YOU HAVE WELL OVER 1,000 ACCREDITED INSTITUTIONS IN 39 STATES, PRIMARILY IN ADULT CORRECTION SETTINGS, BUT ALSO IN COMMUNITY PROGRAMS, JAILS, AND JUVENILE FACILITIES.

THIS PATTERN OF ACCREDITATION ACROSS THE ENTIRE SPECTRUM OF CORRECTIONS -- NOT JUST PRISONS -- SPEAKS WORLDS ABOUT THE WIDE-RANGING IMPACT ACA IS HAVING.

AND WHILE ACA HAS PLAYED A VITAL ROLE IN ADVOCATING POSITIVE CORRECTIONAL CHANGE OVER ITS HISTORY, IT HAS ALSO MANAGED TO REMAIN RELEVANT TO THE FUTURE.

IN FACT, AS I LOOK AHEAD TO THE 1990'S, I AM IMPRESSED BY HOW THE GOALS OF THE CRIMINAL JUSTICE SYSTEM AS A WHOLE RESEMBLE THOSE OF THE AMERICAN CORRECTIONAL ASSOCIATION.

FIRST, INCREASED PROFESSIONALISM IS AN AREA IN WHICH ACA IS A STRONG ADVOCATE. THE NEED FOR HIGHLY TRAINED PROFESSIONAL STAFF WILL ONLY INCREASE AS WE EXPAND THIS NATION'S CORRECTIONAL NETWORK BY TENS OF THOUSANDS OF BEDS AND PROGRAM SPACES.

SECOND, RAPID EXPANSION HIGHLIGHTS THE NEED FOR HIGH STANDARDS, AND ACA HAS BEEN THE PRE-EMINENT LEADER IN THIS AREA AS WELL.

IN A TIME OF GROWTH LIKE THE ONE WE NOW FACE, YOUR STANDARDS CAN SERVE AS A MODEL AND GUIDE FOR AGENCIES, AS THEY WORK TO EXPAND IMPORTANT PRISONS AND COMMUNITY PROGRAMS.

IX.

LET ME CLOSE BY RETURNING TO MY OPENING COMMENTS ABOUT THE TOUGH JOB YOU HAVE AND THE EXEMPLARY WAY YOU ARE HANDLING IT.

NO ONE IN LAW ENFORCEMENT TODAY HAS A MORE DIFFICULT TASK THAN YOU DO.

NO ONE IS DOING A MORE VALUABLE JOB IN PROTECTING THE PUBLIC FROM THE PREDATORY ELEMENTS OF OUR SOCIETY WHO WOULD VICTIMIZE THE INNOCENT AND THE LAW-ABIDING CITIZENS OF OUR COUNTRY.

AND NO ONE IN AMERICA TODAY WHO KNOWS ANYTHING ABOUT CRIME AND CORRECTIONS CAN FAIL TO THANK YOU AND YOUR STAFF FOR THE JOB YOU ARE DOING.

I AM COMMITTED TO WORKING CLOSELY WITH OUR STATE AND LOCAL COLLEAGUES TO MEET THE CHALLENGES THAT CONFRONT US ALL. I AM EXTREMELY PROUD OF THE JOB THE FEDERAL BUREAU OF PRISONS HAS DONE. AND I AM COMMITTED TO DOING WHATEVER WE CAN TO HELP YOU.

WORKING TOGETHER I AM CONVINCED THAT WE CAN MAKE A REAL DIFFERENCE IN REDUCING THE AMOUNT OF CRIME AND VIOLENCE IN THIS COUNTRY. THE PUBLIC DESERVES NO LESS.

THANK YOU.

THE HERITAGE LECTURES

401

**Crime, Poverty,
and the Family**

*By The Honorable
William P. Barr*



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Crime, Poverty, and the Family

By The Honorable William P. Barr

I don't have to tell you that things are at a critical juncture in our country when it comes to violent crime. We find violence now running at intolerably high levels. The heyday of violent crime was actually in the 1960s and 1970s, and I will describe it in more detail later. It peaked in 1980. It started going downward for a few years and now it is picking back up again. It has since 1986 drifted back up again, although the victimization rates today are still significantly lower than they were at its peak in 1980 and 1981.

I think the trend we are seeing in violent crime is driven basically by three factors. First, the crack epidemic that started in about 1986 has led to a high degree of violence. Second, we are seeing the results of some of the family policies of the 1960s and 1970s—the breakdown of the family—and we are starting to pay the price for that with a surge in juvenile crime and the emergence of gangs. And third, we are seeing the saturation of the criminal justice systems in the states and the states relapsing to revolving door justice as prisoners are serving less and less of their sentences and are being prematurely released. I think those are the main factors in this upward trend of violence.

Now, in public discourse about how to deal with this violence, we generally see two competing views. One is the traditional law enforcement approach, which says crime is caused by criminals and the way we deal with crime is to use aggressive enforcement policies and to deter or incapacitate criminals through incarceration. On the other hand, I think we see a lot said about what I call the social rehabilitation response to violent crime. That approach tends to see crime as caused by societal ills and seeks to deal with crime by remedying these ills through social programs. Proponents of this approach say that you can't really deal with violent crime by suppression, you have to attack it at its root causes.

Combined Approach. I think we need both approaches, properly understood, acting together. We do have to take aggressive steps today to deal with the criminals of today. But, we also have to take steps and we do need programs to prevent, as best we can, the youth of today from becoming the chronic offenders of tomorrow.

I think too many advocates of the root causes approach, however, give short shrift to the need for tough law enforcement. They just can't bring themselves to deal with criminals decisively and they tend to dismiss reliance on police and prosecutors and prisons as unenlightened. Many times I hear it said that we should be spending money on schools and housing and so forth rather than on police and prosecutors and prisons.

Well, today I want to make three points. First, I want to explain why I think a strong law enforcement approach has to be paramount. Second, I want to discuss what I think we in law enforcement can do to have an impact. And third, I want to spend a little time talking about social programs and the root causes approach to dealing with violent crime and what I think we have to do there.

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He spoke at the Heritage Foundation on July 29, 1992.

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Basic Reality. So, let us turn first to the issue of why law enforcement must be paramount today. I think those that would give short shrift to suppression of crime through strong law enforcement measures, but would instead rely upon dealing with root causes, are missing a basic point—the basic reality that we see today—and that is, that in this pervasive atmosphere of fear and violence that we see in the inner cities particularly, even the best designed social programs cannot take root. The problem is that our efforts to deal with underlying social maladies are being strangled by crime itself. And I think it is increasingly clear that suppression of crime is a prerequisite for any of our social programs to be successful.

What good is it to build a housing project to see it taken over by drug traffickers and used as a stash house? Or what good is it to invest as much as we do in education and build model schools, only to see those schools become battlegrounds for gangs? The Green Housing Project in Chicago is a project where the federal government has spent a lot of money and has many innovative programs underway. But the principal concern of the mothers in that housing project is the safety of their children. They put their children to sleep in the bathtubs because of the bullets flying around, starting Thursday night and running through the weekend. So we have gotten to the age of armored cribs in the inner city.

I was down at the Prince Garden Apartments Project in Fort Worth. It had just been swept by the police, and the tenants of those apartments came out applauding the police. They held a barbecue for the police, pleading with them not to leave their housing project. One old lady came out and told me that she had been sleeping on the floor under her bed for months because of the bullets flying around the courtyard in the housing project.

Crime Causing Poverty. It was once a shibboleth that poverty causes crime, but today I think it is clear that crime is causing poverty. Businesses are driven from crime-ridden neighborhoods, taking jobs and opportunities with them. Potential investors and would-be employers are scared away. Existing owners are deterred from making improvements on their property, and as property values go down, owners disinvest in their property. I know a small contractor who tried to rehabilitate inner-city housing for low-income tenants. He had to give up because drug addicts would break in, rip out his improvements, and sell them for drug money. They would even come in regularly and take out all of the piping in the building and sell it for scrap. This contractor obviously couldn't continue like that, and like many others has just stopped his efforts to rehabilitate housing.

I think that what we saw in Los Angeles shows the difficulty we are going to have in rebuilding those communities. It shows the impact of crime on a community in fast motion, fast forward. But that same process is occurring around the country at a more deliberate speed.

So in short, I don't think you can have progress amid chaos. And the fact is that no urban program can arrest the decline in our inner cities, and no anti-poverty programs are going to take hold unless they are combined with and founded upon strong law enforcement measures that suppress violent crime.

That brings me to my second point, which I am going to dwell on at length: What do we do on the law enforcement side to suppress violent crime? How do we actually make reductions in violent crime? In my view, the evidence is absolutely clear that the vast bulk of violent crime is committed by a very small group of chronic offenders. Study after study shows that this tiny fraction of incorrigible, habitual offenders is responsible for hundreds and hundreds of crimes each while they are out on the street. A well known study in 1980, which followed 240 criminals, found that in an eleven-year period they committed over 500,000 crimes—an average of 190 crimes a year. And that corresponds to numerous other studies that show that kind of criminality. Another study of various state prisoners found that 25 percent of them committed 135 crimes a year; 10 percent of them committed 600 crimes a year. Every study shows a tiny cohort is responsible disproportionately for the vast amount of predatory violence.

We know the profile of these criminals. They start committing crimes as juveniles. They go right on committing crimes. They commit crimes as adults; they commit crimes when they are on parole, probation, or bail. With this type of habitual offender, the only time they are not committing crimes, at least prior to their fortieth birthday, is when they are in prison.

Today's Conflagration. And I think that in combatting violent crime, we in the criminal justice system must make it our primary goal to identify, to target, and to incarcerate this hard core element of chronic offenders. They should be incapacitated in custody for the time dictated by the public's safety, and not by other artificial restraints like prison space. I think this is the only approach in law enforcement that has any prospect for reducing levels of violent crime. No matter how well we tinker with and perfect our social rehabilitation programs, they are not going to take hold for decades and decades. We have crime on the streets right now. We have to put out the fire today. Yes, we can redesign houses so they are more fireproof in the future, but right now we have a conflagration and we have to deal with it.

I think the history of the last thirty years shows that this policy of incarceration works. The 1960s and 1970s, as you know, were the era of permissiveness in law enforcement. Fewer people were locked up. The people we put away did not serve long sentences. The incarceration rates dropped. At the end of the 1960s we had fewer people in prison than we did when the decade started. In the 1980s, we started turning things around. We built prisons at the federal level and the state level. We toughened up our criminal justice system. We started putting tougher federal judges on the bench. And during the 1980s we turned around the incarceration rates. We started out with 300,000 prisoners in state prisons at the beginning of the decade and we ended it with 800,000. The spiraling violent crime rate of the 1960s and 1970s came to an abrupt halt and plateaued out. But now it is going up again.

I think if we are going to reduce violent crime we have to finish the job we began in the 1980s and get those violent offenders off the street. Unfortunately, I think a lot of states are relapsing back to the 1960s and 1970s-style revolving door system. Today, prisoners on the average are serving only 37 percent of their sentences. In some states, like Texas, they say it is 22 days for every one year of sentence. In Florida, it is 18 percent of sentence served. That is because of prison capacity. Prisoners are being recycled back out onto the streets, after a very short period of time in prison, simply to make room for the next wave. The average sentence given for rape in this country, for example, is eight years; the average sentence served is three years. Three years is the average price of a rape. In many larger states, it is much lower than that. At least 30 percent of the murders in this country are committed by people who are on probation, parole, or bail at the time of murder. So, 6,500 of our fellow citizens are slaughtered each year by people who have been caught and then prematurely released back onto the streets.

I think stopping the revolving door is going to require three things. It is going to require more resources at both the federal and state level. It is going to require legal reform at both the federal and state level. And it is going to require an unprecedented degree of cooperation—the federal government, the state government, local enforcement working together to target the hardest core offenders so we get the most bang for the bucks.

The President has put substantial resources both into the federal effort and into state law enforcement, substantially increasing assistance to the states—notwithstanding some erroneous information handed out last week by political opponents — and substantially increasing the Justice Department budget over 60 percent in three years. And he has done this against the Congress that has been cutting back on his law enforcement requests. I think we are going to have to see the states also make that kind of commitment. My own view is that we are not spending enough on state and local law enforcement.

We have to get back to basics during times of tight budgets and spend money on things that count. We have to recall that protecting the public security is the first duty of government. That is why we submit ourselves to government in the first place, because of the security. The government has an obligation to perform that function, and right now they are not putting in the kind of investment that is needed.

Astronomical Costs. In fact, we are being penny wise and pound foolish, because the cost of not investing in law enforcement is much higher than the cost of investing. The cost of crime—just the economic cost—is \$92 billion a year. That doesn't count lives lost. It is lost to the criminal justice system in revolving doors—we just keep on spending our resources, spinning our wheels, essentially. There is the cost of private security. We spend astronomical amounts of money in private security in this country. We don't put the bars up around the prisoners, people who deserve to be behind bars, and private citizens pay to put bars up between themselves and prisoners, and they become the prisoners. And that is exactly what is happening. And there are a lot of other economic costs—lost sales, lost revenues, and so forth.

When you total it all up, it is clear that the cost of spending on an effective criminal justice system is far lower. There is one ATF study that crystallizes this. It costs an average of \$25,000 a year to keep someone in a prison cell. The ATF study of chronic firearms offenders in the federal system came up with the figure of over \$300,000 for each year those people were out on the street and the crimes they committed. So, I think that law enforcement is an investment well worth making in these tight budget times.

On the reform level, you are all aware that we accomplished a lot in the 1980s. We abolished parole at the federal level and gave strong minimum sentences and so forth. We had an unfinished agenda—the death penalty, habeas corpus reform, expansion of the good faith exception to the exclusionary rule—and those were in the federal crime bill that the President is pushing. But 95 percent of violent crime is at the state level. That, I think is where the real battle is. Unless we reform the state systems in the 1990s, as we did with the federal system in the 1980s, we are not going to make much progress in dealing with violent crime.

And so, reform is critical. Yesterday we issued a report with 24 specific recommendations on how state criminal justice systems can be improved. That report has wide backing in the law enforcement community and among victims' groups. I am optimistic that is going to be helpful to groups that are seeking improvement in the criminal justice systems in their states.

Targeting Chronic Offenders. I mentioned corporation and targeting our resources on the most hard-core offenders. We have an aggressive program in several areas where we are trying to do that. For example, the program that I just released our first report on today—our first annual report—is a trickle off program where we work with a combination of state and local enforcement to use tough firearms laws to take out chronic offenders. By giving them tough federal penalties without probation or parole we keep them off the streets. Over the past year, for example, we have prosecuted over 6,400 individuals; we are achieving an over 90 percent conviction rate. The average sentence without parole is seven years for these firearms offenders—I am talking about felons who use firearms. Three-time losers, people with three prior offenses, are averaging eighteen years without parole in the federal system. These are the worst of the worst—chronic offenders with extensive criminal history records who are caught in possession of a firearm.

That is just one example of targeting our resources to the chronic offender. We have similar programs underway against gangs across the country, and I think in the months ahead you will start to see more gangs being taken down in Philadelphia. In our pilot project and violent traffickers program, which we did in conjunction with the Philadelphia police department, a three-year program, we destroyed 38 gangs, 600 gang members. The leaders of those gangs are serving time in federal

penitentiaries right now without parole or probation. We also have similar operations going on with respect to chronic offender fugitives and with respect to criminal aliens.

Root Causes. What this all means is, if we put in sufficient resources and target our efforts at incapacitating prime offenders, if we put in more resources and we accomplish needed reform, and if we work together in joint programs that target our limited resources at the hardest core element, then I think we can have an impact on violent crime. I think we can provide a foundation upon which our efforts at social rehabilitation can be successful.

And that brings me to my third and final point. As I said at the outset, I think strong law enforcement ultimately should be combined with economic and social and moral rehabilitation of our communities, particularly in our inner-city neighborhoods. How do you go about the task of revitalizing them? What are the root causes of crime and what do you have to do to address them? What kind of social programs should we be pursuing? Now there are some who say that what we need is another massive round of spending on social welfare programs. And I think that is a mistaken view. We have poured trillions of dollars into social welfare programs over the last 25 years. The root-cause strategy is not something new. The root-cause strategy is precisely what we have been pursuing for 25 years.

Today, the government is spending, just on means-tested anti-poverty programs, record amounts —\$280 billion a year. This is up from \$9.6 billion in 1965 at the start of the Great Society. It is up from \$106 billion in 1980 and it has gone up significantly in real terms during President Bush's Administration. A record 4.77 percent of GDP now goes into means-tested programs. And that comes down to \$3,111 for every taxpayer —\$3,111 goes into anti-poverty spending. That doesn't take into account non-means tested root-cause programs. And what have we gotten for this investment? I think that any fair-minded observer would have to say that the overall results of this 25-year war on poverty have been disappointing. Certainly the track record of these programs in fighting poverty has been less than impressive.

Now frankly, I think the argument that poverty causes crime is too much overstated. I think poverty is probably a contributing factor toward crime. But standing alone, the correlation between poverty as a causal factor in crime is very weak. In 1950, for example, the poverty rate was about 32 percent; today, it is 13.5 percent. And yet in 1950 crime rates were much lower than they are today. And in the Great Depression, when about half of this nation's population lived below the poverty line, as today defined, crime was more lower than it is today. When you look at our cities on a grid basis, neighborhood by neighborhood, the fact is that some of our poorest neighborhoods have relatively low crime rates.

But even accepting poverty as a contributing factor to crime, the fact is that, despite our massive spending programs, hard-core poverty seems as stubborn as ever. The fact of the matter is, more progress was made on reducing poverty levels in the seven years preceding the Great Society than has been made since the Great Society. And most of the progress in reducing poverty levels was made in the years immediately following 1965 and during the early years of the Reagan revolution. Otherwise, results have been very disappointing. There seems to be a persistent class of about 10-15 million Americans for whom poverty and dependency is long term and even inter-generational. Our anti-poverty programs have made virtually no headway against this hard-core group.

But more significantly, the policies of the past 25 years have contributed directly to the breakdown of the family, particularly in the inner cities. Now, before the Los Angeles riots I said on the David Brinkley show that we were witnessing in inner-city crime the grim harvest of the Great Society. Senator Moynihan said that this was the most depraved statement he had ever heard from anybody. I stand by what I said.

The welfare policies we have been pursuing since 1965 contain perverse incentives that have contributed to the breakdown of the family by rewarding and promoting non-marriage and illegitimacy.

The numbers are truly staggering. The illegitimacy rate started to escalate rapidly after 1965. In 1965, 7.7 percent of American children were born to unwed mothers. Today the rate is 27 percent. For black children it has climbed to 65 percent, and in many inner-city areas it is over 80 percent. And this has been compounded by the skyrocketing divorce rates in our society. The number of divorces per year has tripled since 1960.

Disintegration of the Family. This family breakdown is a social and a moral catastrophe and is at the root of so many of the problems that beset our nation. In my view, the root cause of both crime and poverty is precisely this unraveling of the family. I think the evidence is clear that children from single-parent homes use drugs more heavily and commit more crimes throughout their lives than children from two-parent homes. Studies show that most gang members come from single-parent homes. Some 70 percent of juvenile delinquents in state reform institutions lived in single-parent homes or with someone other than their natural parents. One study found that 75 percent of adolescent murderers came from single-parent homes. Recent research by June O'Neill, formerly of the Urban Institute, finds that a black child in a single-parent home is more than twice as likely to engage in criminal activities as a black child from a two-parent home. Moreover, when that child is in a neighborhood where there are many other single-parent families, the child becomes three times more likely to engage in criminal activity. A 1988 study published in the *Journal of Research on Crime and Delinquencies* found that the rates of violent crime in a community correlated directly with the proportion of single-parent households in the community, but not the poverty or racial composition apart from family structure. In other words, they found that neither poverty nor race were significantly correlated to crime when family structure is taken into account.

Moreover, the disintegration of the family is the basic cause of long-term poverty and dependency in America today. Almost 70 percent of single-parent families with children and 80 percent of never-married mothers receive some form of government assistance. The poverty rate for female-headed households with children is at 44.5 percent, compared to 7.8 percent for married couples with children. Single-parent families account for 65 percent of poor families with children, and over half of all poor families. Studies show that it is primarily this group among the poor who remain mired in poverty and dependency over the long term.

So, that is the track record of the policies that we have been pursuing for 25 years—little headway against hard-core poverty and the contribution to the breakdown of the family, which in turn, spawns crime and further poverty. The idea that if we just increase our record spending levels by a few more tens of billions of dollars we will somehow achieve a breakthrough is, in my view, incredible.

Reform Agenda. The solution is not in the scale of the programs we have been pursuing, it is in their structure. We have to be a lot smarter about the kinds of growth that we pursue. And in this regard, from the very beginning of the Administration, this President has been pursuing a reform agenda—a set of new ideas, not business as usual, not pouring money into these discredited programs. His efforts seem to avoid the mistakes of the past. So rather than blindly following those programs that foster dependency and contain incentives that reward non-work and non-marriage and illegitimacy, the President has proposed programs that promote bottom-up growth and give real opportunity. And that is why he is proposing enterprise zones to bring jobs and investment into the inner cities and why he is proposing to give public housing residents the opportunity to purchase their homes. That is why he has been urging welfare reform to turn around the current system that rewards non-marriage and illegitimacy and to promote stable family life. Strong families in the long run will be more effective than big bureaucracies in revitalizing our inner-city communities. And he has been seeking to empower grass roots institutions, not bureaucracies. I think the best hope for genuine community renewal lies in fostering the rebirth of those traditional institutions which emerge from the communities themselves and are the best institutions for the moral formation of children—the family and the church and community groups.

Today many of the social experts who brought us the 1960s and 1970s, and are largely responsible for the fix we are in, are promoting a further set of half-baked solutions to our problems that, I think, send the wrong moral message and are equally counterproductive—like handing out needles to addicts and condoms to the kids in high school, and even below high school level.

Sending the Right Message. Our social programs, I think, have to send the right message if we want to turn around behavior. Now law enforcement sends a clear message about right and wrong, about personal responsibility, and about what a just society expects of its citizens. Our social programs must reinforce that message.

So, my message today really is threefold. First, social programs can't be pursued at the expense of, or in lieu of, tough law enforcement policies. On the contrary, law enforcement is the foundation upon which all else must be built and is an absolute prerequisite for social programs to be successful.

Second, the only way to reduce violent crime is to target and incapacitate chronic violent offenders through the tough policy of incarceration. While this Administration has acted vigorously at the federal level to help states deal with violent crime, the long-term solution is for the states to toughen up their own criminal justice systems and make adequate investments in them.

And third, pouring money into a new round of social welfare programs is not the answer. Instead, we have to be smarter about the way we pursue social welfare programs. We need programs that foster opportunity and not dependency, strengthen not undermine the family, and that sends the right not the wrong message.

These are difficult problems that grew up over decades. And now the people who helped contribute to the problems are holding stop watches on the solutions. The problems will not be solved overnight; it is going to be a long-run proposition. But I think that if we follow this agenda—the President's agenda—then we can make a real impact and make this a safer and more just society.





REMARKS OF

**WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES**

**COMBATING VIOLENT CRIME: 24 RECOMMENDATIONS TO
STRENGTHEN CRIMINAL JUSTICE**

**JULY 28, 1992
U.S. DEPARTMENT OF JUSTICE
GREAT HALL**

THANK YOU, AND WELCOME EVERYONE TO THE DEPARTMENT OF JUSTICE THIS AFTERNOON.

WE'RE HONORED TO HAVE HERE TODAY SO MANY DISTINGUISHED LEADERS FROM THE LAW ENFORCEMENT COMMUNITY, BOTH HERE ON THE STAGE AND OUT THERE IN THE AUDIENCE, WHO ARE THE LEADERS OF VICTIMS' RIGHTS ORGANIZATIONS, LEADERS OF CITIZENS' GROUPS AND PUBLIC INTEREST GROUPS THAT ARE INVOLVED IN A BROAD RANGE OF ISSUES.

I'D LIKE TO THANK ALL OF YOU FOR TAKING THE TIME TO JOIN US TODAY, FOR BRINGING HERE TODAY THIS PROBLEM OF VIOLENT CRIME.

I DON'T HAVE TO TELL YOU THAT THIS PROBLEM IS AS SERIOUS AS ANY WE HAVE FACED IN SOCIETY. MURDER AND RAPE ARE ON THE INCREASE. GANG VIOLENCE IS SPREADING. JUVENILES ARE COMMITTING MORE AND MORE SERIOUS CRIMES. THE CRIMES SEEM TO BE BECOMING MORE RUTHLESS AND WANTON AND ALL TOO MANY OF OUR CITIZENS -- ESPECIALLY IN OUR INNER CITIES -- ARE LITERALLY PRISONERS IN THEIR HOMES.

TODAY, I AM RELEASING A REPORT ON VIOLENT CRIME THAT CONTAINS 24 SPECIFIC RECOMMENDATIONS ON HOW STATE CRIMINAL JUSTICE SYSTEMS CAN BE REFORMED AND STRENGTHENED SO THAT THEY ARE MORE EFFECTIVE IN COMBATING VIOLENT CRIME. THESE RECOMMENDATIONS WERE DEVELOPED WITH THE ASSISTANCE OF A BROAD, NON-PARTISAN GROUP

OF LAW ENFORCEMENT PROFESSIONALS. THEY ARE OUR BEST EVIDENCE OF HOW TEAMWORK CAN ACTUALLY HELP REDUCE THE LEVEL OF VIOLENT CRIME IN OUR SOCIETY.

I'D LIKE TO EXPLAIN BRIEFLY HOW THIS REPORT FITS IN WITH OUR OVERALL APPROACH TO DEALING WITH VIOLENT CRIME.

HISTORICALLY, THE ROLE OF THE FEDERAL GOVERNMENT HAS BEEN QUITE LIMITED IN DEALING WITH VIOLENT CRIME.

95% OF VIOLENT CRIME FALLS WITHIN THE JURISDICTION OF STATE AND LOCAL GOVERNMENT.

NONETHELESS, IT HAS BEEN OUR VIEW THAT THE FEDERAL GOVERNMENT CAN PLAY A POSITIVE AND SUBSTANTIAL ROLE IN COMBATING VIOLENT CRIME IN A WORKING PARTNERSHIP WITH OUR STATE AND LOCAL COLLEAGUES.

THE STARTING POINT OF OUR STRATEGY IS THE RECOGNITION THAT MOST OF THE CRIMINAL VIOLENCE THAT WE SEE IN OUR SOCIETY IS COMMITTED BY A VERY SMALL GROUP OF CHRONIC VIOLENT OFFENDERS -- HARDENED CRIMINALS WHO COMMIT STAGGERING NUMBERS OF VIOLENT CRIMES WHENEVER THEY'RE OUT ON THE STREETS.

IF WE'RE TO MAKE ANY PROGRESS IN THE NEAR FUTURE IN REDUCING VIOLENT CRIME, WE MUST IDENTIFY AND TARGET, AND INCARCERATE THIS HARD-CORE GROUP OF CHRONIC OFFENDERS.

SPECIFICALLY, WE'VE BEEN PURSUING A FOUR-PRONGED APPROACH FOR DEALING WITH VIOLENT CRIME.

FIRST, MORE RESOURCES FOR LAW ENFORCEMENT. THERE'S A NEED FOR MORE POLICE, MORE PROSECUTORS, MORE DETENTION SPACE TO KEEP DANGEROUS FELONS OFF THE STREETS, AND AT THE FEDERAL LEVEL WE HAVE MADE SUBSTANTIAL INCREASES IN INVESTING IN LAW ENFORCEMENT, AND WE'VE BEEN ENCOURAGING STATES TO DO LIKEWISE.

SECOND, REFORM OF THE CRIMINAL JUSTICE SYSTEM AT BOTH THE FEDERAL AND THE STATE LEVEL. WE NEED BETTER LEGAL TOOLS TO DEAL WITH CHRONIC VIOLENT OFFENDERS, TO CLOSE THE "REVOLVING DOORS" THAT PREMATURELY RETURN VIOLENT OFFENDERS TO THE STREETS SO THEY CAN COMMIT MORE CRIMES.

UNLESS WE TIGHTEN UP THESE SYSTEMS, THEN MORE RESOURCES WILL DO LITTLE GOOD. IT WILL BE LIKE POURING WATER INTO A SIEVE.

THIRD, TO FOCUS OUR RESOURCES ON HIGH IMPACT OPERATIONS TARGETED AT THE MOST HARD-CORE ELEMENT; AND SO WE HAVE BEEN PUTTING THE EMPHASIS ON JOINT PROGRAMS WITH OUR STATE AND LOCAL

COLLEAGUES, SUCH AS THE SUPERVISED PROGRAMS, THAT TARGETS CHRONIC VIOLENT FIREARMS OFFENDERS AND OUR ANTI-GANG MEASURES THAT WILL BE WORKING THROUGH THE TASK FORCES OF OUR STATE AND LOCAL COLLEAGUES.

FOURTH, TO COORDINATE LAW ENFORCEMENT AND SOCIAL PROGRAMS, SO THAT THEY REINFORCE EACH OTHER, AND IN THIS REGARD WE'VE BEEN PURSUING THE "WEED AND SEED" PROGRAM -- TO WORK OUT A FEDERAL, STATE AND LOCAL STRATEGY FOR HELPING COMMUNITIES TO TAKE BACK THEIR STREETS.

IT INVOLVES THE COORDINATION OF FEDERAL AND LOCAL LAW ENFORCEMENT EFFORTS TO RID NEIGHBORHOODS OF GANGS, DRUG TRAFFICKERS, CHRONIC OFFENDERS, TO USE COMMUNITY ORIENTED POLICING AND TO CREATE A WORKING PARTNERSHIP WITH LAW ENFORCEMENT IN THE COMMUNITY, AND TO COORDINATE AN APPLICATION AT THE FEDERAL, STATE, LOCAL AND PRIVATE SOCIAL PROGRAMS TO REHABILITATE THE COMMUNITY, TO CREATE REAL OPPORTUNITY, AND TO ATTACK THOSE CONDITIONS WHICH CONTRIBUTE TO VIOLENT CRIME.

SO THIS VIOLENT CRIME IS PART OF OUR BROADER STRATEGY -- THE PART THAT FOCUSES ON REFORMING THE STATE CRIMINAL JUSTICE SYSTEMS AND THE CENTRAL MESSAGE OF THIS REPORT IS THAT ACROSS THE COUNTRY, THE POLICE AND THE PROSECUTORS ARE DOING A SUPERB JOB, BUT -- ALL TOO OFTEN -- THEY'RE BEING UNDERMINED AND UNDERCUT BY THE CRIMINAL JUSTICE SYSTEM ITSELF.

EITHER THEY HAVE NOT BEEN GIVEN THE TOOLS TO DO AN EFFECTIVE JOB AGAINST CHRONIC VIOLENT OFFENDERS, OR THEIR EFFORTS ARE NULLIFIED BY A REVOLVING DOOR SYSTEM THAT PREMATURELY RELEASES THOSE OFFENDERS.

TODAY, ACROSS THE COUNTRY, THE AVERAGE OFFENDER ONLY SERVES 37 PERCENT OF HIS OR HER SENTENCE. THE AVERAGE SENTENCE, FOR EXAMPLE, FOR RAPISTS IN THIS COUNTRY IS EIGHT YEARS, BUT THE AVERAGE TIME SERVED IS ONLY THREE YEARS -- THREES YEARS FOR A RAPE.

THIRTY PERCENT OF THE MURDERS IN THIS COUNTRY ARE COMMITTED BY PEOPLE ON BAIL, PROBATION OR PAROLE, AND IN SOME OF OUR MAJOR STATES, THE TIME SERVED BY PRISONERS HAS FALLEN DRAMATICALLY -- STATES LIKE FLORIDA, STATES LIKE TEXAS.

THE 1980'S WERE A TIME WHEN WE SUCCESSFULLY REFORMED THE FEDERAL CRIMINAL JUSTICE SYSTEM -- TODAY IT'S PROBABLY THE MOST TOUGH SYSTEM IN THE NATION. IN THE 1990'S, WE MUST FOCUS OUR EFFORTS ON STRENGTHENING THE STATE CRIMINAL JUSTICE SYSTEM.

THIS REPORT IDENTIFIES A NUMBER OF PROBLEMS THAT ALL TOO FREQUENTLY ARE PRESENT IN THE STATE CRIMINAL JUSTICE SYSTEM, AND THESE INCLUDE:

o THE INABILITY TO DETAIN DANGEROUS OFFENDERS WHO ARE AWAITING TRIAL;

o INSUFFICIENT PENALTIES FOR CHRONIC VIOLENT OFFENDERS;

o FAST RETURN TO THE STREETS OF CONVICTED VIOLENT CRIMINALS BECAUSE OF A LACK OF NECESSARY PRISON SPACE;

o INADEQUATE JUVENILE JUSTICE SYSTEMS THAT FAIL TO DIVERT SALVAGEABLE KIDS FROM A LIFE OF CRIME AND FAIL TO PROTECT SOCIETY FROM YOUTHS WHO HAVE ALREADY BECOME HARDENED INCORRIGIBLE VIOLENT OFFENDERS.

THE REPORT OFFERS RECOMMENDATIONS FOR CORRECTING THESE PROBLEMS.

THESE 24 RECOMMENDATIONS COVER SUCH THINGS AS:

-- PROTECTING THE COMMUNITY FROM DANGEROUS DEFENDANTS;

-- EFFECTIVE DETERRENCE AND PUNISHMENT FOR BOTH JUVENILE AND ADULT OFFENDERS;

-- EFFICIENT TRIAL, APPEAL, AND COLLATERAL ATTACK PROCEDURES; AND

-- RESPECTING THE VICTIM IN THE CRIMINAL JUSTICE PROCESS.

NOW, I'D LIKE TO STRESS THAT THIS IS NOT, IN ANY WAY, A PARTISAN REPORT OR A POLITICAL REPORT.

THIS PROCESS HAS BEEN UNDERWAY FOR MORE THAN A YEAR AND DURING THIS TIME, THE DEPARTMENT HAS STUDIED AND COLLECTED INFORMATION ABOUT ALL OF THE STATE CRIMINAL JUSTICE SYSTEMS, AND WE'VE BEEN WORKING CLOSELY WITH OUR COLLEAGUES IN EACH STATE.

WE'VE CONSULTED WIDELY THROUGHOUT THE LAW ENFORCEMENT COMMUNITY, ON A NON-PARTISAN BASIS, ABOUT THE FUNCTIONING OF THE CRIMINAL JUSTICE SYSTEM AND NEEDED REFORMS.

DRAFTS AND IDEAS WERE CIRCULATED THROUGHOUT THE LAW ENFORCEMENT COMMUNITY. THE REPORT DOES NOT DEAL WITH POLITICAL PERSPECTIVES -- IT GIVES A LAW ENFORCEMENT PROFESSIONAL PERSPECTIVE.

THIS REPORT, I BELIEVE, WILL ENJOY BROAD-BASED SUPPORT WITHIN THE LAW ENFORCEMENT COMMUNITY, AND THE LEADERS UP HERE TODAY WITH ME REFLECT THAT SUPPORT.

THEY'RE HERE AS DEDICATED PROFESSIONALS WHO CARE ABOUT DOING A BETTER JOB OF PROTECTING THE COMMUNITY FROM VIOLENT OFFENDERS.

ONE OF THE REASONS WE HAVE NOT DONE A BETTER JOB REFORMING OUR STATE CRIMINAL JUSTICE SYSTEMS IN THIS COUNTRY, IS THAT THERE HAS NOT BEEN A WELL ORGANIZED CONSTITUENCY PRESSING FOR REFORM.

FRANKLY, IN MANY STATES, THE JUDICIARY COMMITTEES OF THE STATE LEGISLATURES ARE UNDER THE INFLUENCE OF, OR IN THE GRIP OF THE ORGANIZED CRIMINAL DEFENSE LAWYERS, AND IN MY VIEW, THE ULTIMATE HOPE FOR STRENGTHENING THE CRIMINAL JUSTICE SYSTEM LIES WITH THE CITIZENS THEMSELVES.

THE CITIZENS OF THIS COUNTRY ARE RIGHTFULLY ANGRY WITH THE CRIMINAL JUSTICE SYSTEM THAT'S NOT WORKING, AND THEY ARE READY TO PUSH FOR CHANGE.

BUT WHILE CITIZENS ARE AWARE THAT SOMETHING'S WRONG WITH THIS SYSTEM, AND IT IS, THEY ARE NOT SURE EXACTLY WHAT IS WRONG OR WHAT CAN BE DONE ABOUT IT.

THIS VIOLENT CRIME REPORT HELPS EXPLAIN TO THE AVERAGE CITIZEN WHAT IS WRONG, AND WHAT CAN BE DONE ABOUT IT.

WE HOPE IT BECOMES A CATALYST FOR GALVANIZING THE BROAD, ULTIMATELY IRRESISTIBLE COALITION PUSHING FOR STRENGTHENING THE CRIMINAL JUSTICE SYSTEM -- A COALITION OF THE LAW ENFORCEMENT COMMUNITY; VICTIMS' ORGANIZATIONS; AND CITIZENS' GROUPS.

AND, IN MY VIEW, ONLY IN ACCOMPLISHING SOME OF THESE FUNDAMENTAL REFORMS, WILL WE BE ABLE TO REDUCE THE LEVEL OF VIOLENT CRIME IN OUR SOCIETY.

WITH THAT, I WOULD LIKE TO INTRODUCE TO YOU A NUMBER OF LAW ENFORCEMENT LEADERS, AND LEADERS OF VICTIMS' ORGANIZATIONS.

I WOULD LIKE TO START WITH THE ATTORNEY GENERAL FOR THE STATE OF NEW JERSEY, ROBERT DEL TUFO. BOB HAS A LONG AND DISTINGUISHED CAREER IN LAW AND LAW ENFORCEMENT. HE HAS SERVED BOTH AS A FEDERAL AND A STATE PROSECUTOR. HE WAS UNITED STATES ATTORNEY, THE TOP FEDERAL LAW ENFORCEMENT OFFICER OF NEW JERSEY, FROM 1977 TO 1980, AND NOW HE IS SERVING AS THE VICE CHAIRMAN OF THE CRIMINAL LAWS COMMITTEE OF THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL.

HE'S ALSO BEEN INSTRUMENTAL IN THE STATE OF NEW JERSEY IN SETTING UP OUR "WEED AND SEED" PROGRAM, ONE OF OUR PILOT STUDIES, AND WE WORK CLOSELY WITH HIM.

10/2/98
Pleasure to have opportunity to talk
with the WRS Steering Committee in
Fort Worth.

When we ~~were~~ were looking for the
best cities to get the WRS program
underway - we wanted cities with

- civic
- Committed ~~political~~ leadership
 - Strong law enforcement community
with a high level of cooperation
 - active and involved business
community
 - citizens who want to fight back
and reclaim their neighborhoods.

I can't think of a better city for
the WRS program.

We have an energetic and committed
Mayor ~~and civic leadership~~ who supports
law enforcement.

Great law enforcement community here.
With such leaders as Tom Windham
and the other area chiefs -
Tim Curry - D.A. for Tarrant
County - nationally recognized prosecutor
and a superb federal team
headed by USA Marvin Collins,
Buck Reed (FBI), and Phil Jackson of
DEA. (ATF)

This is a law enforcement team that works well together.

Here in Ft. Worth there is a vibrant business leadership that is committed to the well-being of the community.

And most important, Ft. Worth has active, grassroots community groups that are ready to take charge!

I'm thinking of the Citizens Crime Commission of Tarrant County and the religious and community leaders and the residents of the East Side.

Rbt. Fernandez
great work
on Gang T.F.

Pat Thomas

I'm very pleased that we are able to support the WRS effort in Ft. Worth

and I'd like to congratulate all of you who worked so hard to make the program a reality.

TOO OFTEN
SEPARATE
TRACKS

Too often in the past, we have pursued our social programs and our law enforcement programs on separate tracks.

RESULTS
'STRAGGLED'

The result has been that many of our efforts to revitalize our communities are being strangled by crime.

- We build ^{public} housing only to see it taken over by drug pushers and used as crack houses.

- We build schools only to see them become battle zones.

It has become increasingly clear that dealing with crime is an absolute prerequisite for social programs to be successful.

It's been argued that Poverty causes crime -

→ Well today it has become clear that CRIME is causing poverty.

High crime rates drive out businesses and job opportunities.

Housing stock suffers because of high crime rates -- owners will not invest as values decrease.

The President has launched the program as
W+S is modest program for this year. This is demonstration.

But the thing to remember about W+S is that ~~it is~~ a new strategy — a strategy that we think is the way we can take back out countries.

The saying goes: Every long journey starts with just one step.

FIRST
STEP

Projects like this are the first step.

But, as it succeeds, we see the W+S the W+S program rapidly expanding.

And next year the President is seeking a substantial expansion.
— \$500 m.
— Enterprise zones

Speak a movement about philosophy underlying W+S.

Basic notion behind W+S is that social programs + law enforcement must go hand in-
hand and must be closely linked to the community.

HAND-
IN
HAND

We need to turn this around.
So break this cycle.

We must restore some law & order
to our inner city communities so this
can serve as the foundation for
all else we want to accomplish.

We can't have two standards of
public safety in our society. -- one for
the suburbs and one for the inner city.

All citizens are entitled to protection.

We must do all we can to make
our inner city communities safer
so that citizens ~~can~~ can ~~for~~ pursue
their dreams.

Another part of the WS philosophy

Partnership between
S-L-F /

partnerships w/ community

- no top down

- bottom up

community itself
involved in solving the
the problems in the
community
"we need help, but were not helpless."

III. FURTHER STEPS

A. Substantial increase in violent crime/
~~gang~~ anti-gang operations.

~~2~~ ◦ Infusion of new resources.

◦ Propose Gang-RICO

~~3~~ [◦ Stepped-up High-Risk Youth efforts?]

B. Propose ~~to~~ reform ^{of} juvenile justice system.

◦ Federal changes to allow more latitude in prosecuting juveniles as adults.

◦ Issue report on ^(states?) ~~the~~ juvenile justice systems

◦ Promote "boot camps" on active military ~~or~~ bases.

[◦ Argument High-Risk Youth efforts?]

C. ~~Prison reform~~ Propose legislation to limit federal court interference in running prisons and to make it easier to transfer criminal aliens to serve their sentences overseas.



Department of Justice

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE THE
FBI NATIONAL ACADEMY ASSOCIATES

JULY 22, 1992
FORT WORTH, TEXAS

INTRODUCTION

THANK YOU.

IT'S GREAT TO HAVE THE OPPORTUNITY TO BE WITH YOU THIS MORNING.

I'M TOLD THIS IS THE LARGEST MEETING OF NATIONAL ACADEMY ASSOCIATES IN HISTORY.

I'M ESPECIALLY GLAD TO HAVE THE CHANCE TO VISIT WITH:

OUR HOST: THOMAS WINDHAM, CHIEF OF POLICE IN FORT WORTH;

"BUCK" REVELL, SPECIAL AGENT IN CHARGE, DALLAS F.B.I.;

ALBERT WAGNER, PRESIDENT OF THE NATIONAL BOARD OF THE NATIONAL ACADEMY ASSOCIATES; AND

CHIEF JERRY BLAISDELL, PRESIDENT OF THE TEXAS CHAPTER OF THE NATIONAL ACADEMY ASSOCIATES.

YOUR COMMITMENT TO ONGOING TRAINING SPEAKS VOLUMES ABOUT THE CALIBER OF THE PEOPLE WHO ARE NATIONAL ACADEMY ASSOCIATES.

YOU TRULY REPRESENT AN ELITE GROUP IN LAW ENFORCEMENT. IN TERMS OF EXPERIENCE, COMPETENCE, CHARACTER, AND COMMITMENT TO

SERVICE, THE NATIONAL ACADEMY ASSOCIATES HAVE SET THE STANDARD FOR THE LAW ENFORCEMENT COMMUNITY FOR 57 YEARS.

I AM HONORED TO HAVE THIS CHANCE TO SPEAK TO YOU TODAY.

* * *

THIS MORNING I WANT TO TALK TO YOU ABOUT ONE OF THE MOST CRITICAL ISSUES FACING THIS COUNTRY -- VIOLENT CRIME.

I DON'T HAVE TO TELL YOU THAT THINGS ARE AT A CRITICAL JUNCTURE.

VIOLENCE IS AT INTOLERABLY HIGH LEVELS.

MURDERS AND RAPES ARE ON THE INCREASE.

GANG VIOLENCE IS SPREADING.

CRIME SEEMS TO BE BECOMING MORE VICIOUS AND WANTON.

WHAT CAN WE DO ABOUT THIS?

THERE IS A TENDENCY IN PUBLIC DISCOURSE THESE DAYS TO DRAW A DICHOTOMY BETWEEN TWO DIFFERENT APPROACHES TO DEALING WITH VIOLENT CRIME.

ON THE ONE HAND, THERE IS THE LAW ENFORCEMENT APPROACH WHICH SEES CRIME AS CAUSED BY CRIMINALS AND SEEKS TO DEAL WITH CRIME BY USING AGGRESSIVE ENFORCEMENT AND TOUGH LAWS TO DETER OR TO INCAPACITATE VIOLENT CRIMINALS.

ON THE OTHER HAND, THERE IS THE SOCIAL REHABILITATION APPROACH TO VIOLENT CRIME. THIS TENDS TO SEE CRIME AS CAUSED BY SOCIETAL ILLS AND SEEKS TO DEAL WITH CRIME BY REMEDYING THESE ILLS THROUGH VARIOUS SOCIAL PROGRAMS.

PROponents OF THIS APPROACH SAY YOU CAN'T DEAL WITH CRIME BY SUPPRESSION, AND THAT WE NEED TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

NOW THE FACT IS, WE NEED BOTH APPROACHES OPERATING TOGETHER.

WE HAVE TO TAKE AGGRESSIVE STEPS TO SUPPRESS THE CRIMINALS OF TODAY WHO ARE WREAKING HAVOC TODAY.

AT THE SAME TIME, WE DO NEED PROGRAMS TO PREVENT (AS BEST WE CAN) THE YOUTH OF TODAY FROM BECOMING THE CRIMINAL OF TOMORROW.

HOWEVER, I THINK TOO MANY ADVOCATES OF ATTACKING "ROOT

CAUSES" HAVE FAILED TO APPRECIATE THE NEED FOR VIGOROUS LAW ENFORCEMENT.

THEY TEND TO DISMISS RELIANCE ON POLICE, PROSECUTORS, AND PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED.

ALL TOO FREQUENTLY, THEY PRESENT THEIR SOCIAL PROGRAMS AS AN ALTERNATIVE TO TOUGH LAW ENFORCEMENT.

THEY SAY "LET'S NOT SPEND MORE MONEY ON POLICE AND PRISONS; LET'S SPEND IT ON SCHOOLS AND HOUSING."

TODAY, I WANT TO MAKE THREE POINTS.

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT SOCIAL PROGRAMS CANNOT SUBSTITUTE FOR TOUGH LAW ENFORCEMENT, AND THAT, THESE DAYS, IF ANYTHING, THE NEED FOR VIGOROUS LAW ENFORCEMENT IS PARAMOUNT.

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL PROGRAMS SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE.

I.

SO, FIRST LET ME TURN TO WHY I BELIEVE A TOUGH LAW ENFORCEMENT RESPONSE MUST BE PARAMOUNT.

I THINK, THOSE WHO WOULD GIVE SHORT SHRIFT TO SUPPRESSION OF CRIME THROUGH LAW ENFORCEMENT, BUT WOULD INSTEAD RELY ON SOCIAL PROGRAMS ARE MISSING A BASIC POINT.

IN THIS PERVASIVE ATMOSPHERE OF VIOLENCE AND FEAR, EVEN THE BEST-DESIGNED SOCIAL PROGRAMS CANNOT TAKE ROOT.

THE PROBLEM TODAY IS THAT EFFORTS AT REVITALIZING OUR URBAN COMMUNITIES ARE BEING STRANGLERED BY CRIME.

AND IT IS INCREASINGLY CLEAR THAT SUPPRESSION OF CRIME IS AN ABSOLUTE PRE-REQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

WHAT GOOD IS IT TO BUILD PUBLIC HOUSING ONLY TO SEE IT TAKEN OVER AND RUN BY DRUG TRAFFICKERS?

WHAT GOOD IS IT TO PUT A "MODEL SCHOOL" IN OUR INNER-CITY NEIGHBORHOOD ONLY TO SEE IT BECOME A BATTLEGROUND FOR GANGS?

IT WAS ONCE A SHIBBOLETH THAT "POVERTY CAUSES CRIME".

BUT -- TODAY -- WHAT IS CLEAR IS THAT "CRIME IS CAUSING POVERTY."

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN NEIGHBORHOODS TAKING JOBS AND OPPORTUNITIES WITH THEM.

THE FACT IS THAT NO URBAN DEVELOPMENT PROGRAM CAN ARREST THE DECLINE OF OUR INNER CITIES -- AND NO ANTI-POVERTY SOCIAL PROGRAMS CAN TAKE HOLD -- UNLESS THEY ARE COMBINED WITH TOUGH LAW ENFORCEMENT MEASURES TO REDUCE CRIME.

II.

AND THAT BRINGS ME TO MY SECOND POINT -- HOW DO WE GO ABOUT, ON THE LAW ENFORCEMENT SIDE, HAVING A REAL IMPACT ON VIOLENT CRIME?

THE EVIDENCE IS CLEAR THAT THE PROBLEM OF VIOLENT CRIME TODAY IS LARGELY THE PROBLEM OF THE CHRONIC VIOLENT OFFENDER.

STUDY-AFTER-STUDY SHOW THAT THERE IS A TINY FRACTION OF THE POPULATION WHO ARE INCORRIGIBLE, HABITUAL VIOLENT OFFENDERS AND WHO COMMIT MOST OF THE PREDATORY VIOLENCE IN OUR SOCIETY.

EACH OF THESE CAREER CRIMINALS COMMITS A STAGGERING NUMBER OF CRIMES WHEN THEY ARE OUT ON THE STREETS.

FOR EXAMPLE, A 1980 STUDY OF 240 CRIMINALS FOUND THAT THIS SMALL GROUP WAS RESPONSIBLE FOR HALF A MILLION CRIMES OVER AN ELEVEN YEAR PERIOD -- AN AVERAGE OF 190 CRIMES A YEAR EACH.

NUMEROUS OTHER STUDIES SHOW THE SAME RESULTS.

WE KNOW THE PROFILE OF THESE CHRONIC OFFENDERS.

THEY START COMMITTING CRIMES AS JUVENILES AND KEEP RIGHT ON COMMITTING CRIMES AS ADULTS.

RECIDIVISM IS A VIRTUAL CERTAINTY.

WHENEVER THEY ARE LET OUT OF CUSTODY -- ON BAIL, PAROLE, OR PROBATION -- THEY ARE ALMOST SURE TO COMMIT NEW CRIMES.

WITH THIS TYPE OF HABITUAL OFFENDER ONE THING IS CLEAR: THE ONLY TIME WE KNOW THEY ARE NOT COMMITTING CRIMES IS WHEN THEY ARE LOCKED UP.

IN COMBATting VIOLENT CRIME, THEN, I BELIEVE, THE PRIMARY GOAL OF OUR CRIMINAL JUSTICE SYSTEM MUST BE TO IDENTIFY, TARGET, AND INCARCERATE THIS HARD CORE GROUP OF CHRONIC OFFENDERS --

MAKING THEM SERVE LONG SENTENCES AND HOLDING THEM IN CUSTODY FOR A LENGTH OF TIME DICTATED BY THE PUBLIC'S SAFETY.

IN MY VIEW, IF WE WANT TO REDUCE VIOLENT CRIME IN OUR LIFETIME OR IN OUR CHILDRENS' LIFETIME, THIS POLICY OF INCAPACITATING CHRONIC OFFENDERS IS THE ONLY POLICY THAT HAS ANY PROSPECTS FOR SUCCESS.

INDEED, THE HISTORY OF THE LAST 30 YEARS SHOWS CLEARLY THAT TOUGH INCARCERATION POLICIES WORK.

THE 1960'S AND 1970'S WAS THE ERA OF PERMISSIVENESS. FEWER VIOLENT OFFENDERS WERE SENT TO PRISON, AND THOSE THAT WERE SERVED SHORTER SENTENCES. INCARCERATION RATES FELL BY 20%.

THE RESULT: VIOLENT CRIME RATES SKYROCKETED, NEARLY QUADRUPLING FROM 1960 TO 1980.

IN THE 1980'S, WE STARTED TO TURN THIS AROUND. THE FEDERAL GOVERNMENT AND MANY STATES TOUGHENED UP THEIR CRIMINAL JUSTICE SYSTEMS AND EXPANDED PRISON CAPACITY.

WE STARTED TO SEND VIOLENT CRIMINALS TO PRISON ONCE AGAIN AND MADE THEM SERVE LONGER SENTENCES. IN FACT, INCARCERATION RATES DOUBLED DURING THE 1980'S, AND THE PRISON POPULATION GREW FROM ABOUT 300,000 TO ABOUT 800,000.

THE RESULT: THE SPIRALING CRIME RATES OF THE 60'S AND 70'S WERE ABRUPTLY HALTED.

NATIONALLY, THE VIOLENT CRIME RATE LEVELLED OFF AND EVEN EDGED SLIGHTLY DOWNWARD FOR SEVERAL YEARS.

AND, ALTHOUGH, STARTING WITH THE CRACK EPIDEMIC IN 1986-87, VIOLENT CRIME RATES WERE AGAIN MOVING UPWARD, THE FACT IS THAT, TODAY, OVERALL VICTIMIZATION RATES ARE STILL LOWER THAN THEY WERE IN 1980-81.

IF WE ARE GOING TO REDUCE VIOLENT CRIME, WE ARE GOING TO HAVE TO PRESS AHEAD AND FINISH THE JOB WE STARTED IN THE 1980'S, AND DO A BETTER JOB OF INCAPACITATING CHRONIC OFFENDERS.

NOW, THERE ARE THOSE WHO SAY INCARCERATION DOESN'T WORK.

THE ACLU PRISON PROJECT SAYS: WE DOUBLED INCARCERATION RATES IN THE 1980'S AND THE CRIME RATE IS STILL GOING UP. ERGO, INCARCERATION DOESN'T WORK.

THIS ARGUMENT IS FRIVOLOUS.

THE ISSUE IS NOT WHETHER THE CRIME RATES GOES UP OR DOWN IN

A GIVEN YEAR. THE ISSUE IS WHETHER THE CRIME RATE IS LOWER THAN IT WOULD HAVE OTHERWISE BEEN.

THERE ARE ALSO SOME WHO SAY WE SHOULD NOT BE PUTTING SO MANY PEOPLE IN PRISON, BUT SHOULD BE USING OTHER ALTERNATIVES.

WELL, IF A STATE IS USING A SUBSTANTIAL PORTION OF ITS PRISON SPACE ON NON-VIOLENT INDIVIDUALS WHO CLEARLY POSE NO DANGER, THEY SHOULD RE-EVALUATE THAT POLICY.

BUT THIS, BY-AND-LARGE, IS NOT THE PROBLEM.

IT IS A MYTH THAT THE PRISONS ARE FULL OF PEOPLE WHO DO NOT REALLY BELONG THERE.

-- ABOUT 93% OF STATE, AND 90% OF FEDERAL PRISONERS ARE EITHER VIOLENT OFFENDERS OR ESTABLISHED RECIDIVISTS.

-- ONLY 1 IN 4 OFFENDERS IS IN CUSTODY.

THE PROBLEM TODAY IS NOT THAT THERE ARE SO MANY AMONG THE ONE MILLION IN PRISON WHO SHOULD NOT BE THERE; THE PROBLEM IS TOO MANY AMONG THE 3 MILLION WHO HAVE BEEN RELEASED SHOULD BE IN PRISON. I THINK THE BOTTOM LINE IS THAT IN THE 1980'S WE DID ABOUT HALF THE JOB.

ACROSS THE NATION, WE STILL HAVE HUNDREDS OF THOUSANDS OF CHRONIC OFFENDERS BEING CYCLED BACK OUT ON TO THE STREETS.

UNFORTUNATELY, SOME STATES ARE RELAPSING BACK TO THE "REVOLVING DOOR" SYSTEMS OF THE 60'S AND 70'S.

-- NATIONALLY, VIOLENT OFFENDERS ARE ONLY SERVING 37% OF THE SENTENCE IMPOSED.

-- FOR MURDER, THE MEDIAN SENTENCE IS 15 YEARS MEDIAN TIME SERVED 5 1/2.

-- FOR RAPE, 8/3

-- 5 OUT OF 8 FELONS RELEASED EARLY FROM PRISON ARE ARRESTED FOR A SERIOUS CRIME WITHIN 3 YEARS OF RELEASE.

-- AT LEAST 30% OF MURDERS ARE COMMITTED BY PERSONS ON BAIL, PROBATION OR PAROLE.

ADDRESSING THIS REVOLVING DOOR PROBLEM WILL REQUIRE GREAT COMMITMENT.

SPECIFICALLY, I THINK IT WILL REQUIRE THREE THINGS IN THE 1990'S.

FIRST, WE MUST CONTINUE TO MAKE A SUBSTANTIAL INFUSION OF RESOURCES INTO LAW ENFORCEMENT, PARTICULARLY FOR BUILDING MORE JAILS AND PRISONS.

SECOND, WE MUST CONTINUE TO PRESS FOR CRITICALLY NEEDED REFORMS OF OUR CRIMINAL JUSTICE SYSTEM.

THIRD, WE MUST PURSUE AN UNPRECEDENTED DEGREE OF LAW ENFORCEMENT COOPERATION AS WE LEVERAGE OUR RESOURCES AND USE THEM TO FOCUS ON TARGETING AND INCAPACITATING THE MOST HARDCORE OFFENDERS.

LET ME TOUCH ON EACH OF THESE.

RESOURCES

LET ME TURN FIRST TO THE MATTER OF RESOURCES.

IT'S NO SECRET THAT WE LIVE IN A TIME OF TIGHT FISCAL RESOURCES.

THE PRESSURE IS ON GOVERNMENT AT ALL LEVELS TO CONTROL SPENDING -- AND FOR GOOD REASON.

AS A RESULT, HOWEVER, MANY LAW ENFORCEMENT AGENCIES AROUND THE COUNTRY ARE ACTUALLY CUTTING THEIR BUDGETS --DESPITE HIGH CRIME RATES.

THESE FINANCIAL CONSTRAINTS ARE OPERATING AT THE FEDERAL LEVEL TOO. THE BUDGET FOR FEDERAL LAW ENFORCEMENT HAS INCREASED BY 60 PERCENT OVER THE PAST THREE YEARS, BUT LAST YEAR, WHEN PRESIDENT BUSH SOUGHT A 15 PERCENT INCREASE FOR FEDERAL LAW ENFORCEMENT, THE CONGRESS ENACTED LESS THAN HALF THAT INCREASE.

AND THIS YEAR, WHILE PRESIDENT BUSH IS SEEKING A 10 PERCENT INCREASE FOR FEDERAL LAW ENFORCEMENT, THE HOUSE JUST PASSED A BILL WITH NO INCREASE AT ALL.

IT'S TIME WE WENT BACK TO THE BASICS. WHEN MONEY IS TIGHT, YOU SPEND IT WISELY. YOU SPEND IT WHERE IT COUNTS.

AND PUBLIC SAFETY -- PROVIDING FOR THE PHYSICAL SECURITY OF OUR CITIZENRY -- IS THE VERY FIRST DUTY OF GOVERNMENT.

LAW ENFORCEMENT IS NOT JUST ANOTHER LINE ITEM IN THE STATE OR THE CITY'S BUDGET; IT IS THE HIGHEST OBLIGATION OF GOVERNMENT AND SHOULD RECEIVE THE HIGHEST PRIORITY IN FUNDING.

NOW IS NOT THE TIME FOR CUTBACKS IN LAW ENFORCEMENT.

ON THE CONTRARY, MORE INVESTMENT IS NECESSARY. THE INTOLERABLY HIGH LEVELS OF VIOLENT CRIME, THE SCALE OF THE DRUG PROBLEM, THE GROWING NUMBER OF STREET GANGS, THE DEMAND FOR COMMUNITY-ORIENTED POLICING -- ALL THIS REQUIRES NOT FEWER, BUT MORE RESOURCES.

IF YOU LOOK AT THE NUMBER OF LAW ENFORCEMENT OFFICERS IN AMERICA IN RELATION TO THE VIOLENT CRIME RATE, YOU FIND THAT TODAY WE HAVE EFFECTIVELY ONE-QUARTER OF THE POLICE FORCE THAT WE HAD 30 YEARS AGO. WE'RE SEVERELY SHORT-HANDED.

ADDITIONAL POLICE OFFICERS IS JUST PART OF WHAT WE NEED TO FINISH THE JOB. WE MUST ALSO ENSURE THAT WE HAVE SUFFICIENT JAIL SPACE TO HOLD DANGEROUS CRIMINALS WHILE THEY AWAIT TRIAL. WE NEED ENOUGH PROSECUTORS TO TRY THOSE ARRESTED FOR VIOLENT CRIMES, AND WE NEED ADEQUATE PRISON CAPACITY TO INCAPACITATE THOSE WHO REPEATEDLY TERRORIZE OUR COMMUNITIES.

THERE ARE SOME PEOPLE WHO SAY WE SIMPLY CAN'T AFFORD TO SPEND MORE ON LAW ENFORCEMENT. TO THEM, I SAY THAT WE CANNOT AFFORD NOT TO INVEST MORE IN LAW ENFORCEMENT.

THERE IS A TENDENCY TODAY TO FOCUS ON THE COST OF POLICE, THE COST OF EQUIPMENT, THE COST OF MORE PRISON SPACE. BUT IT'S TIME WE FOCUSED ON THE COSTS OF FAILING TO PROVIDE THESE RESOURCES.

THE MORE YOU LOOK AT IT, THE MORE YOU WILL SEE THAT POLICE, PROSECUTORS AND PRISONS ARE A SOUND INVESTMENT.

ALTHOUGH LAW ENFORCEMENT IS NOT CHEAP, THE COST TO SOCIETY OF NOT PROVIDING EFFECTIVE LAW ENFORCEMENT IS FAR GREATER.

LET'S JUST LOOK AT THE COSTS OF VIOLENT CRIME.

ONE DOJ STUDY ESTIMATED THAT ANNUAL TOTAL COSTS TO VICTIMS OF CRIME WERE \$92 BILLION A YEAR.

TODAY, JUST TREATING GUNSHOT WOUNDS IN EMERGENCY ROOMS COSTS OUR SOCIETY \$5 BILLION A YEAR.

THE COSTS OF KEEPING VIOLENT PREDATORS IN CUSTODY IS FAR LESS THAN THE TERRIBLE TOLL THEY EXACT ON THE STREETS.

AND LET'S NOT FORGET THE HIGH COSTS THAT PREMATURE RELEASE OF VIOLENT OFFENDERS IMPOSES ON THE CRIMINAL JUSTICE PROCESS ITSELF.

MUCH OF THE POLICE AND JUDICIAL RESOURCES WE SPEND IN CATCHING, INVESTIGATING, AND TRYING OFFENDERS ARE FRITTERED AWAY AS THE OFFENDERS ARE PREMATURELY LET GO -- SIMPLY TO BE RECYCLED THROUGH THE SYSTEM YET AGAIN.

AND THERE ARE OTHER COSTS OF VIOLENT CRIME, ONES WE DON'T OFTEN THINK ABOUT.

IF WE DON'T PAY WHAT IS NECESSARY TO CATCH CRIMINALS AND PUT THEM BEHIND BARS, THEN INNOCENT CITIZENS MAY HAVE TO PAY TO PUT THEMSELVES BEHIND BARS.

I'VE VISITED MANY INNER-CITY NEIGHBORHOODS IN THIS COUNTRY, AND SEEN ROW UPON ROW OF HOUSES SURROUNDED BY BARS -- BARS ON THE WINDOWS, BARS ON THE DOORS. THE AMOUNT OF MONEY THAT WE, AS A SOCIETY, SPEND ON PRIVATE SECURITY MEASURES -- ESSENTIALLY MAKING OURSELVES THE PRISONERS -- IS MIND-BOGGLING.

AND THEN THERE ARE THE INCALCULABLE, YET FAR LARGER COSTS TO SOCIETY OF CRIME -- SUCH AS LOST SALES WHEN PEOPLE ARE AFRAID TO GO OUT AND DO THEIR SHOPPING ... AND LOST JOBS WHEN BUSINESSES MOVE OUT OF HIGH-CRIME AREAS ... AND LOST OPPORTUNITIES WHEN SCHOOLS BECOME PLAYGROUNDS FOR GANGS AND DRUG DEALERS, RATHER THAN PLACES WHERE KIDS CAN LEARN THEIR WAY OUT OF POVERTY ... AND LOST TAX REVENUES WHEN BUSINESS SALES AND BUSINESS JOBS EVAPORATE.

IT'S CRIME -- NOT LAW ENFORCEMENT -- THAT COSTS TOO MUCH. INVESTING IN STRONG LAW ENFORCEMENT IS NOT ONLY THE MORALLY RIGHT THING TO DO, IT IS ECONOMICALLY THE RIGHT THING TO DO.

YET, DESPITE THE ENORMOUS NEEDS THAT EXIST TODAY, SPENDING ON LAW ENFORCEMENT REMAINS A SMALL PERCENTAGE OF THE PUBLIC BUDGET -- FAR, FAR LESS THAN THE AMOUNT SPENT ON SOCIAL PROGRAMS.

IN INNUMERABLE OTHER AREAS, WE AS A SOCIETY HAVE RECOGNIZED THE NEED TO INVEST SUBSTANTIAL RESOURCES IN ORDER TO AVOID THE RISK OF HARM.

-- FOR EXAMPLE, WE INVEST TENS OF BILLIONS OF DOLLARS TO REDUCE THE LOSS OF LIFE IN CAR CRASHES, INCLUDING INVESTMENT IN HIGHWAY BARRIERS AND SAFETY DEVICES.

-- OR WE SPEND TENS OF BILLIONS A YEAR TO REGULATE AIR QUALITY AND BILLIONS TO REGULATE HAZARDOUS WASTE DISPOSAL, IN ORDER TO AVOID THE HARM CAUSED BY EXPOSURE TO POLLUTANTS AND TOXINS.

-- WE SPEND BILLIONS ON ASBESTOS REMOVAL ALONE.

THE PUBLIC APPEARS TO ACCEPT THE NEED FOR THESE SUBSTANTIAL EXPENDITURES, EVEN THOUGH SOME OF THEM GUARD AGAINST RELATIVELY SPECULATIVE OR REMOTE HARMS.

WE ARE WILLING AS A SOCIETY TO SPEND MILLIONS JUST TO AVERT ONE PREMATURE DEATH.

FOR EXAMPLE, EACH YEAR STATEWIDE PERIODIC MOTOR VEHICLE INSPECTION PROGRAMS COST \$12.6 MILLION PER EACH LIFE SAVED.

VARIOUS ACADEMIC SURVEYS OF PEOPLE'S WILLINGNESS TO PAY TO AVOID RISKS OF DEATH INDICATE THAT PUBLIC SPENDING OF UP TO \$2.6 MILLION TO AVERT ONE DEATH WOULD BE JUSTIFIED.

IF WE APPLIED THE SAME LOGIC -- AND COST/BENEFIT ANALYSIS -- USED IN OUR OTHER PUBLIC HEALTH AND SAFETY PROGRAMS TO LAW ENFORCEMENT, WE WOULD BE INVESTING MUCH GREATER AMOUNTS IN LAW ENFORCEMENT.

LET ME GIVE YOU AN EXAMPLE:

AT LEAST 6,500 HOMICIDES ARE COMMITTED EACH YEAR BY PERSONS ON BAIL, PROBATION OR PAROLE.

NOW OBVIOUSLY, IF WE COULD AFFORD MORE PRISON SPACE, THIS NUMBER COULD BE DRAMATICALLY LOWERED BECAUSE WE WOULD NOT HAVE TO PREMATURELY RELEASE PRISONERS.

USING THE \$2.6 MILLION PER LIFE SAVED FIGURE, WOULD MEAN, IF WE USED THE LOGIC OF OTHER PROGRAMS, SPENDING \$17 BILLION TO AVERT THESE HOMICIDES. THIS WOULD ALMOST DOUBLE WHAT WE ARE SPENDING NOW ON CORRECTIONS, AND THIS DOES NOT TAKE INTO ACCOUNT

ALL THE OTHER NON-LETHAL CRIMES TO BE AVERTED -- THE BURGLARIES, RAPES, ASSAULTS AND ROBBERIES.

OBVIOUSLY, I AM NOT SUGGESTING THAT WE DOUBLE OUR CORRECTIONS BUDGETS.

BUT I AM SAYING THAT THE NOTION THAT WE CANNOT AFFORD TO SPEND MORE ON LAW ENFORCEMENT IS FLATLY WRONG.

REFORM

THE SECOND MAJOR TASK IN THE 1990'S IS TO PRESS FOR URGENTLY NEEDED REFORMS OF OUR CRIMINAL JUSTICE SYSTEM AT BOTH THE FEDERAL AND THE STATE LEVEL.

DURING THE 1960'S AND THE 1970'S, OUR CRIMINAL JUSTICE SYSTEM GOT SERIOUSLY OUT OF BALANCE, AS YOU ALL KNOW.

IT GOT SKEWED IN FAVOR OF THE CRIMINAL -- AT THE EXPENSE OF SOCIETY'S RIGHTS.

IN THE 1980'S, WE STARTED THE DIFFICULT TASK OF RESTORING THE CRIMINAL JUSTICE SYSTEM -- REBALANCING IT TO GIVE GREATER WEIGHT TO THE RIGHTS OF VICTIMS. AND WE HAVE MADE GREAT PROGRESS.

AT THE FEDERAL LEVEL, PRESIDENT REAGAN AND PRESIDENT BUSH HAVE MADE IT A PRIORITY TO SELECT JUDGES WHO WILL SUPPORT THE LEGITIMATE NEEDS OF LAW ENFORCEMENT.

TODAY, 60 PERCENT OF THE FEDERAL JUDGES HAVE BEEN APPOINTED BY EITHER PRESIDENT REAGAN OR PRESIDENT BUSH. AS A RESULT, SOME OF THE JUDICIAL EXCESSES OF THE 1960'S AND 1970'S HAVE BEEN REMEDIED, AND A MORE BALANCED JURISPRUDENCE HAS BEGUN TO EMERGE.

FURTHERMORE, OVER THE LAST FEW YEARS, WE'VE REFORMED THE FEDERAL CRIMINAL JUSTICE SYSTEM THROUGH LEGISLATIVE ACTION.

WE OBTAINED EFFECTIVE PRE-TRIAL DETENTION AND SENTENCING REFORM. WE FOUGHT FOR AND WON TOUGH NEW TOOLS LIKE ASSET FORFEITURE AND MANDATORY MINIMUM SENTENCES.

BUT WHILE WE'VE MADE SIGNIFICANT PROGRESS IN STRENGTHENING THE CRIMINAL JUSTICE SYSTEM, CLEARLY MUCH MORE REMAINS TO BE DONE. NOW WE HAVE TO PUSH FORWARD AND FINISH THE JOB.

THE PRESIDENT'S CRIME BILL WILL CARRY OUT THIS UNFINISHED AGENDA. PRESIDENT BUSH IS SEEKING THE DEATH PENALTY AND STRICTER PENALTIES FOR FELONS WHO USE FIREARMS. HE WANTS A BROADER GOOD-FAITH EXCEPTION TO THE EXCLUSIONARY RULE. AND HE'S SEEKING TO CURB ABUSE OF THE WRIT OF HABEAS CORPUS. FOR MORE THAN 3 YEARS THIS BILL HAS LANGUISHED IN CONGRESS.

BUT REFORM AT THE FEDERAL LEVEL CAN ONLY HAVE A LIMITED IMPACT ON VIOLENT CRIME. WE STILL NEED LEGAL REFORM AT THE STATE LEVEL -- BECAUSE 95 PERCENT OF VIOLENT CRIME IS HANDLED AT THE STATE AND LOCAL LEVEL. WHILE SOME STATES DID MUCH TO BRING THEIR SYSTEMS UP TO DATE IN THE 1980'S, OTHERS UNFORTUNATELY HAVE LAGGED BEHIND.

IN STATE AFTER STATE, WE STILL HAVE HUNDREDS OF THOUSANDS OF CHRONIC OFFENDERS BEING RE-CYCLED BACK OUT ONTO THE STREETS.

NEXT WEEK THE DEPARTMENT OF JUSTICE WILL RELEASE A COMPREHENSIVE VIOLENT CRIME REPORT THAT CONTAINS 24 SPECIFIC RECOMMENDATIONS FOR STRENGTHENING STATE CRIMINAL JUSTICE SYSTEMS. IT CONTAINS, AMONG OTHER THINGS, SPECIFIC RECOMMENDATIONS ON TRUTH-IN-SENTENCING, UPDATED EVIDENTIARY RULES TO ENHANCE THE TRUTH-FINDING FUNCTIONS OF THE TRIAL, IMPROVEMENTS IN THE JUVENILE JUSTICE SYSTEM AND PROVISIONS WHICH PROTECT THE ROLE OF THE VICTIM THROUGHOUT THE CRIMINAL JUSTICE PROCESS. I HOPE THAT YOU WILL FIND THIS REPORT USEFUL IN YOUR FIGHT TO STRENGTHEN AND IMPROVE THE CRIMINAL JUSTICE SYSTEM.

COOPERATION AND TARGETING

BEYOND THE NEED FOR RESOURCES AND REFORM -- WE MUST FOCUS

OUR EXISTING RESOURCES WHERE THEY WILL DO THE MOST GOOD AGAINST THE HARDEST-CORE VIOLENT OFFENDERS.

WE RECOGNIZE THAT 95% OF VIOLENT CRIME FALLS WITHIN STATE AND LOCAL RESPONSIBILITY AND SHOULD REMAIN SO.

HOWEVER, THIS ADMINISTRATION BELIEVES THAT IN CERTAIN SELECTED AREAS, WE IN FEDERAL LAW ENFORCEMENT CAN USE OUR RESOURCES AND OUR TOUGH FEDERAL LAWS TO HELP THE STATES COMBAT VIOLENT CRIME.

LET ME BRIEFLY MENTION THREE OF THESE INITIATIVES.

FIRST -- "PROJECT TRIGGERLOCK", A NATIONWIDE PROGRAM WE LAUNCHED A YEAR AGO TO USE TOUGH FEDERAL FIREARMS LAWS TO GIVE HEAVY MANDATORY SENTENCES TO REPEAT VIOLENT FIREARMS OFFENDERS.

IN THE FIRST YEAR OF THIS PROGRAM, WORKING COOPERATIVELY WITH LOCAL DISTRICT ATTORNEYS, WE HAVE FEDERALLY CHARGED 6,454 SERIOUS VIOLENT OFFENDERS, AND OUR CONVICTION RATE IS RUNNING OVER 90%.

THESE OFFENDERS ARE GETTING HEAVIER SENTENCES THAN THEY WOULD GET IN STATE COURT AND ARE SERVING THEIR TIME IN FEDERAL PRISON WITHOUT PAROLE. THE AVERAGE SENTENCE WE ARE GETTING ON THREE TIME LOSERS IS 18 YEARS.

ANOTHER INITIATIVE IS OUR NATIONWIDE PROGRAM TO HELP LOCAL LAW ENFORCEMENT CRACK DOWN ON VIOLENT STREET GANGS.

BY USING OUR TOUGH FEDERAL ORGANIZED-CRIME STATUTES, AS WELL AS OUR FEDERAL FIREARMS AND DRUG STATUTES, WE HAVE THE CAPACITY TO TAKE OUT ENTIRE ORGANIZATIONS IN ONE FELL SWOOP.

OUR PILOT PROGRAM WAS IN PHILADELPHIA.

THERE, OUR JOINT FEDERAL-LOCAL TASK FORCE DESTROYED 38 STREET GANGS BY SWEEPING UP AND SUCCESSFULLY CONVICTING UNDER FEDERAL RICO STATUTES 600 KEY GANG MEMBERS.

ON JANUARY 9 OF THIS YEAR, I DIRECTED THE CREATION OF THESE JOINT TASK FORCES IN EVERY MAJOR CITY ACROSS THE COUNTRY; AND 300 FBI AGENTS WERE REASSIGNED FROM COUNTER-INTELLIGENCE WORK TO ANTI-GANG SQUADS.

I AM CONFIDENT THAT THE RESULTS OF THESE ANTI-GANG EFFORTS WILL BECOME INCREASINGLY EVIDENT IN THE COMING MONTHS.

WHAT ALL THIS MEANS IS THAT, IF WE FOCUS OUR EFFORTS ON INCAPACITATING CHRONIC VIOLENT OFFENDERS, AND IF WE INVEST ADEQUATE RESOURCES, ACHIEVE NEEDED LEGAL REFORMS, AND WORK COOPERATIVELY IN MOUNTING AGGRESSIVE OPERATIONS TARGETED AT THE

HARDEST-CORE ELEMENT -- THEN WE WILL HAVE A REAL PROSPECT OF REDUCING VIOLENT CRIME AND PROVIDING AN ENVIRONMENT WITHIN WHICH -- AND A FOUNDATION UPON WHICH -- OUR EFFORTS TO REBUILD OUR COMMUNITIES CAN BE SUCCESSFUL.

III.

AND THAT BRINGS ME TO MY THIRD AND FINAL POINT.

AS I SAID AT THE OUTSET, TO ACHIEVE ANY REAL PROGRESS IN STOPPING CRIME AND REBUILDING OUR COMMUNITIES, STRONG LAW ENFORCEMENT MUST BE COMBINED WITH ECONOMIC, SOCIAL, AND MORAL REHABILITATION OF OUR INNER CITY NEIGHBORHOODS.

BUT HOW DO WE GO ABOUT THE TASK OF REVITALIZING OUR COMMUNITIES? WHAT TYPES OF SOCIAL PROGRAMS SHOULD WE BE PURSUING?

SOME SUGGEST THAT WE NEED ANOTHER ROUND OF MASSIVE SPENDING ON SOCIAL WELFARE PROGRAMS.

I BELIEVE THAT VIEW IS MISTAKEN.

OVER THE LAST TWENTY-FIVE YEARS WE HAVE POURED TRILLIONS OF DOLLARS INTO SOCIAL WELFARE PROGRAMS.

WHAT HAVE WE GOTTEN FOR ALL OF THIS INVESTMENT?

I THINK THAT ANY FAIR-MINDED OBSERVER WOULD HAVE TO SAY THAT THE OVERALL RESULTS OF THIS TWENTY-FIVE YEAR "WAR ON POVERTY" HAVE BEEN DISAPPOINTING.

IN MY VIEW, THE SOLUTION IS NOT IN THE SCALE OF THE PROGRAMS BUT IN THEIR STRUCTURE. WE MUST BE SMARTER ABOUT HOW WE SPEND ON SOCIAL PROGRAMS.

IN THIS REGARD, FROM THE BEGINNING OF HIS ADMINISTRATION THE PRESIDENT HAS BEEN PUSHING A REFORM AGENDA THAT SEEKS TO AVOID THE MISTAKES OF THE PAST, AND TO PROMOTE REAL OPPORTUNITY.

THIS ADMINISTRATION HAS THE ONLY NEW APPROACHES THAT HAVE BEEN PROPOSED -- IDEAS THAT WILL PROVIDE OPPORTUNITY FOR PEOPLE, NOT DEPENDENCY. THAT IS WHY WE ARE PROPOSING ENTERPRISE ZONES TO BRING JOBS AND INVESTMENT INTO THE CITIES. AND THAT'S WHY WE'RE PROPOSING H.O.P.E. -- TO GIVE PUBLIC HOUSING RESIDENTS THE OPPORTUNITY TO PURCHASE THEIR HOMES.

WE HAVE BEEN URGING WELFARE REFORM. THE CURRENT SYSTEM REWARDS NON-MARRIAGE AND ILLEGITIMACY. WE HAVE TO TURN AROUND THESE INCENTIVES AND PROMOTE STABLE FAMILY LIFE.

AND, WE MUST COORDINATE OUR SOCIAL PROGRAMS WITH A FOUNDATION OF STRONG, TOUGH LAW ENFORCEMENT SO THAT LAW ABIDING CITIZENS IN OUR INNER CITIES CAN RECLAIM THEIR COMMUNITIES FROM VIOLENT PREDATORS AND PULL THEMSELVES UP OUT OF POVERTY.

AND TO ACCOMPLISH THIS, THE PRESIDENT HAS LAUNCHED THE "WEED AND SEED" PROGRAM. THE PROGRAM IS CURRENTLY UNDERWAY IN 20 CITIES ACROSS THE COUNTRY.

IN SUM, MY MESSAGE TODAY IS REALLY THREEFOLD:

FIRST, SOCIAL PROGRAMS CANNOT BE PURSUED AT THE EXPENSE OF, OR IN LIEU OF, TOUGH LAW ENFORCEMENT POLICIES. ON THE CONTRARY, LAW ENFORCEMENT IS THE FOUNDATION UPON WHICH ALL ELSE MUST BE BUILT, AND IS AN ABSOLUTE PREREQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

SECOND, THE ONLY WAY TO REDUCE VIOLENT CRIME IS TO TARGET AND INCAPACITATE CHRONIC VIOLENT OFFENDERS THROUGH A TOUGH POLICY OF INCARCERATION. WHILE, THIS ADMINISTRATION HAS ACTED VIGOROUSLY TO HELP THE STATES DEAL WITH VIOLENT OFFENDERS, ULTIMATELY THE ANSWER IS FOR THE STATES TO TOUGHEN UP THEIR OWN CRIMINAL JUSTICE SYSTEMS.

THIRD, POURING MORE MONEY INTO SOCIAL WELFARE PROGRAMS IS NOT NECESSARILY THE ANSWER. INSTEAD, WE HAVE TO BE SMARTER ABOUT

THE WAY WE PURSUE SOCIAL PROGRAMS. WE NEED PROGRAMS THAT FOSTER OPPORTUNITY, NOT DEPENDENCY.

THESE ARE DIFFICULT PROBLEMS THAT GREW UP OVER DECADES.

WE ARE NOT GOING TO SOLVE THEM OVERNIGHT.

BUT I THINK IF WE FOLLOW THIS AGENDA, WE CAN HAVE A REAL IMPACT AND MAKE OUR COUNTRY A SAFER AND JUSTER PLACE.

THANK YOU.

REMARKS OF

WILLIAM P. BARR

ATTORNEY GENERAL OF THE UNITED STATES

BEFORE THE FLORIDA SHERIFFS ASSOCIATION

FORT MEYERS, FLORIDA

MONDAY, JULY 20, 1992

THANK YOU VERY MUCH.

IT IS A GREAT HONOR TO BE HERE TODAY TO SPEAK TO THE FLORIDA SHERIFFS ASSOCIATION. I WANTED TO COME HERE, BECAUSE WE AT THE DEPARTMENT OF JUSTICE ENJOY A PARTICULARLY CLOSE RELATIONSHIP WITH THIS ASSOCIATION. WE COLLABORATE TOGETHER ON A BROAD RANGE OF MATTERS TO STRENGTHEN AND IMPROVE THE CRIMINAL JUSTICE SYSTEM IN THIS COUNTRY. AS ATTORNEY GENERAL, I AM COMMITTED TO BUILDING AND STRENGTHENING OUR EXCELLENT WORKING PARTNERSHIP IN THE YEARS AHEAD.

I WOULD LIKE TO GET RIGHT TO THE POINT OF WHAT I WILL BE SPEAKING TO YOU ABOUT THIS AFTERNOON. I DON'T HAVE TO TELL THIS GROUP ABOUT THE SEVERITY OF THE CRIME PROBLEM THAT WE ARE FACING IN THIS COUNTRY IN GENERAL, AND IN FLORIDA IN PARTICULAR. THE COLD STATISTICS THAT I COULD READ OFF TO YOU ARE, AS YOU KNOW, STAGGERING. YOU DO NOT NEED TO HEAR THESE STATISTICS AGAIN. YOU LIVE WITH THE HARSH REALITIES

THAT MAKE UP THESE NUMBERS EVERY DAY OF YOUR LIVES.

YOU ARE PART OF A GROUP THAT CAN TRACE ITS HISTORY BACK A THOUSAND YEARS. I AM SURE THAT OVER THAT MILLENNIUM THERE HAVE BEEN MANY TIMES WHEN SHERIFFS FACED OVERWHELMING DIFFICULTIES AND SEEMINGLY IMPOSSIBLE CIRCUMSTANCES. BUT I DOUBT THAT AMERICA'S SHERIFFS HAVE EVER FACED GREATER CHALLENGES THAN YOU DO TODAY.

AS LAW ENFORCEMENT OFFICERS, YOU OPERATE IN AN ENVIRONMENT THAT IS MORE DANGEROUS, MORE VIOLENT, AND MORE RESISTANT TO LAWFUL AUTHORITY THAN EVER BEFORE. IN THE FACE OF THIS ATTACK, YOU PRESS ON, QUIETLY AND BRAVELY ENFORCING OUR LAWS, RISKING YOUR VERY LIVES TO PROTECT OUR PEOPLE. YOU PRESS ON IN THE FACE OF A SOCIETY THAT IS NEVER QUITE AS APPRECIATIVE AS IT SHOULD BE, A MEDIA THAT OFTEN VILIFIES YOU AND PORTRAYS CRIMINALS AS HEROS, SO-CALLED SCHOLARS WHO

ADVANCE ONE CRIMINAL-CODDLING "ROOT CAUSE" THEORY AFTER ANOTHER, AND A PRISON SYSTEM THAT IS TOO OFTEN LITTLE MORE THAN A REVOLVING DOOR. YOU ARE THE BRAVE SOLDIERS IN OUR NATIONAL DEFENSE AGAINST THOSE WHO WOULD KILL, RAPE, AND ROB OUR PEOPLE, AND IN THE PROCESS TAKE FROM US THE HARD-WON LIBERTY THAT HAS BEEN PAID FOR WITH THE BLOOD OF GENERATIONS OF AMERICANS.

WITHOUT YOU, THE ENACTMENTS OF OUR LEGISLATURES AND THE PRONOUNCEMENTS OF OUR COURTS WOULD BE LITTLE MORE THAN PAPER AND INK. YOU ARE THE LIFE BLOOD OF OUR CONSTITUTION. YOU ARE THE TRUE GUARDIANS OF OUR LIBERTY. TODAY, I SALUTE YOU AND THE JOB THAT YOU DO WITH HONOR AND VALOR EVERY DAY. THE COMMUNITY CAN NEVER REALLY REPAY THE DEBT THAT IT OWES YOU.

I AM HERE TO TELL YOU THAT PRESIDENT BUSH AND I SUPPORT YOU IN YOUR EFFORT, AND ARE DOING ALL THAT WE

CAN TO HELP. TODAY I WOULD LIKE TO DISCUSS WITH YOU THE THREE CRITICAL TASKS THAT WE IN LAW ENFORCEMENT MUST ACCOMPLISH IN THIS DECADE IF WE WANT TO DO OUR JOB MORE EFFECTIVELY. IF WE CAN ACHIEVE THESE THREE OBJECTIVES, TOGETHER WE CAN WIN BACK OUR NEIGHBORHOODS.

FIRST, WE ARE ALL GOING TO HAVE TO WORK VERY HARD TO ENSURE THAT WE HAVE THE RESOURCES NECESSARY TO FIGHT CRIME. I CANNOT ALLOW ANY CITIZEN'S OR LAW ENFORCEMENT OFFICER'S LIFE TO BE PUT AT UNNECESSARY RISK BECAUSE OF INADEQUATE FUNDING. NOR WILL I TOLERATE THE FRUSTRATION OF YOUR EFFORTS BY AN UNDERFUNDED PRISON SYSTEM THAT IS BASICALLY A REVOLVING DOOR.

SECOND, WE NEED TO PRESS HARD FOR THE URGENTLY NEEDED LEGAL REFORMS TO STRENGTHEN OUR CRIMINAL JUSTICE SYSTEM. WE ARE UNFORTUNATELY STILL FACED WITH

ARTIFICIAL OBSTACLES THAT HAVE BEEN ERECTED IN THE PAST BY A COURT SYSTEM THAT WAS SEEMINGLY MORE INTERESTED LIBERATING CRIMINALS, THAN IN PROPERLY INTERPRETING THE BILL OF RIGHTS AND EFFECTIVELY ENFORCING THE LAWS OF THE LAND. THANKFULLY, WITH THE HELP OF PRESIDENTS REAGAN AND BUSH, WHO HAVE APPOINTED COUNTLESS PRINCIPLED JURISTS TO THE FEDERAL BENCH, THIS DIRE SITUATION HAS CHANGED A GREAT DEAL. HOWEVER, AS I WILL EXPLAIN, MORE NEEDS TO BE DONE.

THIRD AND FINALLY, WE HAVE TO BUILD AND STRENGTHEN THE CLOSE COOPERATION THAT HAS TO EXIST AMONG ALL LEVELS OF LAW ENFORCEMENT, IF ANY OF US IS GOING TO BE SUCCESSFUL. WE ARE ALL IN THIS TOGETHER, AND WE MUST WORK TOGETHER TO SERVE AND PROTECT ALL CITIZENS, AND EACH OTHER.

LET ME SAY A LITTLE MORE ABOUT EACH OF THESE THREE

IMPORTANT GOALS. FIRST, I WILL TURN TO THE MATTER OF RESOURCES. NOW, IT IS NO SECRET THAT WE LIVE IN AN ERA OF SCARCE PUBLIC RESOURCES. THERE IS INTENSE PRESSURE ON GOVERNMENT AT ALL LEVELS TO CONTROL AND CUT SPENDING, AND THERE SHOULD BE. MANY CITIES, COUNTIES, AND STATES HAVE FLAT RUN OUT OF MONEY, AND THERE IS AN INTENSE GROWING COMPETITION AMONG THE VARIOUS AGENCIES OF GOVERNMENT FOR THE LIMITED PUBLIC RESOURCES. IN ADDITION, THE VARIOUS INTEREST GROUPS ARE, AS ALWAYS, QUITE VOCAL, AND THEY ARE ALL CLAMORING FOR A BIGGER SHARE OF THE PIE. AS A RESULT, EVEN AS CRIME IS INCREASING ALL AROUND US, MANY LAW ENFORCEMENT AGENCIES AROUND THE COUNTRY ARE ACTUALLY FACING BUDGET CUTS.

AS YOU KNOW, THESE CONSTRAINTS ARE OPERATING ON THE FEDERAL LEVEL AS WELL. LAST YEAR, PRESIDENT BUSH SOUGHT A 15 PERCENT INCREASE IN FUNDING FOR FEDERAL LAW ENFORCEMENT. CONGRESS RESPONDED BY ENACTING LESS

THAN HALF OF THAT INCREASE. THIS YEAR, THE PRESIDENT IS SEEKING A TEN PERCENT INCREASE IN LAW ENFORCEMENT RESOURCES. HOWEVER, THERE IS TALK IN CONGRESS ABOUT DENYING ANY ADDITIONAL RESOURCES TO FIGHT CRIME.

NO ONE KNOWS BETTER THAN WE DO THAT OUR COMMUNITIES SIMPLY CANNOT AFFORD BUDGET CUTS IN LAW ENFORCEMENT AT THIS CRITICAL TIME. THOSE OF US IN LAW ENFORCEMENT HAVE AN OBLIGATION TO REMIND OUR FELLOW CITIZENS AND PUBLIC OFFICIALS OF THE SUPREME IMPORTANCE OF INVESTING ADEQUATE RESOURCES IN LAW ENFORCEMENT. WHILE IT IS IMPORTANT TO CUT THE FAT FROM GOVERNMENT BUDGETS, ANY ATTACKS ON LAW ENFORCEMENT RESOURCES STRIKES AT THE HEART OF OUR SOCIETY, AND CANNOT BE TOLERATED.

BY CUTTING BACK ON LAW ENFORCEMENT, WE ARE GAMBLING WITH THE LIVES OF OUR FAMILIES AND OUR NEIGHBORS. LAW ENFORCEMENT IS NOT A LUXURY. IT IS,

IN FACT, THE PRIMARY, AND SOME BELIEVE THE ONLY, JUSTIFICATION FOR SETTING UP GOVERNMENTS IN THE FIRST PLACE. WE MUST REMIND PEOPLE THAT GOVERNMENT'S FIRST OBLIGATION, ITS HIGHEST DUTY, IS TO THE PHYSICAL SAFETY OF ITS CITIZENS. IF ANY GOVERNMENT SHIRKS THIS RESPONSIBILITY, THEN IT IS IN BREACH OF THE SOCIAL COMPACT. SCRIMPING ON LAW ENFORCEMENT IS A BLATANT VIOLATION OF THE PUBLIC TRUST.

AS THE PRESIDENT OFTEN SAYS, LAW ENFORCEMENT IS NOT JUST ANOTHER ITEM IN THE STATE OR COUNTY'S BUDGET, IT IS THE HIGHEST OBLIGATION OF GOVERNMENT AND SHOULD RECEIVE THE HIGHEST PRIORITY IN FUNDING. LAW ENFORCEMENT IS ESSENTIAL TO CIVILIZATION. NOTHING IS POSSIBLE WITHOUT IT. IT IS THE PREREQUISITE FOR THE AMERICAN DREAM.

NOW IS EMPHATICALLY NOT THE TIME FOR CUTBACKS IN LAW ENFORCEMENT. ON THE CONTRARY, IF ANYTHING, MORE

INVESTMENT IS NECESSARY. THE INCREASING LEVELS OF CRIME, PARTICULARLY VIOLENT CRIME, THE SCALE OF THE DRUG PROBLEM, THE WIDENING ACTIVITY OF ORGANIZED CRIMINAL GROUPS AND THE RESOURCES THAT THEY COMMAND, THE DEMAND FOR COMMUNITY ORIENTED POLICING, ALL REQUIRE NOT FUNDING CUTS, BUT MORE RESOURCES, MORE POLICE, MORE PROSECUTORS, AND MORE PRISON AND JAIL SPACE.

GOVERNMENTS THAT STUBBORNLY INSIST ON CUTTING BACK ON LAW ENFORCEMENT IN THE CURRENT DANGEROUS ENVIRONMENT, BEAR AT LEAST PARTIAL RESPONSIBILITY FOR THE FORESEEABLE DISASTROUS CONSEQUENCES OF THEIR IRRESPONSIBLE ACTIONS. SUCH GOVERNMENT CONDUCT AMOUNTS TO NOTHING LESS THAN A RECKLESS DISREGARD FOR THE LIVES OF ITS CITIZENS. IT ALSO MAKES YOUR JOBS MORE DANGEROUS THAN THEY HAVE TO BE. WE OWE YOU AND EACH OTHER MORE THAN THAT.

THE EVIDENCE SUPPORTING THE CASE FOR MORE AND BETTER LAW ENFORCEMENT IS ALL AROUND US. FOR EXAMPLE, IF WE LOOK AT THE NUMBER OF SWORN OFFICERS IN THIS COUNTRY IN RELATION TO VIOLENT CRIME, THEN TODAY WE HAVE EFFECTIVELY ONE QUARTER OF THE POLICE FORCE THAT WE HAD THIRTY YEARS AGO. SO WE HAVE FEWER OFFICERS FIGHTING AN ESCALATING NUMBER OF MORE PERNICIOUS CRIMINALS.

IN ADDITION, THOSE OFFICERS ARE BEING BETRAYED BY THE SYSTEM. WE MUST ALSO PROVIDE SUFFICIENT PRISON SPACE TO PUNISH CRIMINALS ONCE THEY ARE APPREHENDED AND CONVICTED. NOWHERE IS THE PROBLEM OF A LACK OF PRISON SPACE MORE CRITICAL THAN RIGHT HERE IN THE STATE OF FLORIDA. AND NOWHERE ARE THE COSTS OF SUCH GOVERNMENT NEGLECT MORE EVIDENT. AS YOU KNOW, THE PRISONS HERE ARE CROWDED. AND BECAUSE OFFICERS LIKE YOU ARE DOING YOUR JOBS, THEY ARE GETTING MORE CROWDED. AT THE SAME TIME, YOUR PRISON SYSTEM IS

UNDERFUNDED AND OPERATES UNDER THE SPECTER OF BOTH LEGISLATIVELY AND JUDICIALLY IMPOSED PRISON POPULATION CAPS. THIS STATE'S RESPONSE TO ITS CRISIS IN PRISON SPACE, WHICH HAS ADMITTEDLY BEEN UNNECESSARILY INTENSIFIED BY THE CAPS, HAS BEEN SIMPLY TO RELEASE DANGEROUS FELONS LONG BEFORE THEY HAVE SERVED THEIR FULL SENTENCES. AS A RESULT, PRISONERS ARE SERVING LESS TIME FOR THEIR CRIMES IN FLORIDA THAN EVER BEFORE.

IN 1988, FLORIDA'S PRISONERS WERE SERVING AN AVERAGE OF 52% OF THEIR SENTENCES. TODAY, THEY SERVE ONLY 33% OF THEIR TIME, AND THIS NUMBER CONTINUES TO DECLINE. A 1989 STUDY CONDUCTED BY THE ORLANDO SENTINEL SHOWED THAT 59% OF INMATES WHO WERE RELEASED EARLY WERE REARRESTED, AND MORE THAN HALF OF THESE -- OR 31% OF ALL INMATES RELEASED EARLY -- WERE REARRESTED BEFORE THEIR GUIDELINE SENTENCES WERE SCHEDULED TO END. AT THE SAME TIME, THE CRIME RATE IN

FLORIDA HAS SKYROCKETED. IN FACT, FLORIDA'S VIOLENT CRIME RATE IN 1990 WAS 70% HIGHER THAN THE NATIONAL VIOLENT CRIME RATE. IN ADDITION, FLORIDA NOW HAS THE HIGHEST PER CAPITA CRIME RATE OF ANY STATE.

THIS GOVERNMENTAL NEGLECT OF LAW ENFORCEMENT HAS COST THE CITIZENS OF FLORIDA DEARLY. LET ME JUST GIVE YOU A COUPLE OF EXAMPLES OF THE GRIM REALITY OF FLORIDA'S POLICIES. YOU ALL PROBABLY KNOW THE STORY OF JOHN MORGAN BARNES. BARNES WAS CONVICTED IN 1981 OF KIDNAPPING A TWENTY-YEAR-OLD WOMAN, DRIVING HER TO AN ORANGE GROVE, AND SAVAGELY RAPING AND BEATING HER. HE WAS INITIALLY SENTENCED TO FIFTY YEARS IN STATE PRISON, BUT A TRIAL JUDGE REDUCED THE SENTENCE TO 15 YEARS. HE WAS PAROLED IN 1986, AFTER SERVING JUST 5 YEARS OF HIS SENTENCE. IN JANUARY OF THIS YEAR, BARNES WAS ARRESTED AND CHARGED WITH ABDUCTING, ROBBING, RAPING, AND SODOMIZING A TWENTY-THREE YEAR OLD BRADENTON WOMAN. MR. BARNES SHOULD STILL BE IN

PRISON SERVING HIS REDUCED SENTENCE ON HIS FIRST CONVICTION. INSTEAD, HE HAS DESTROYED THE LIFE OF ANOTHER FLORIDA CITIZEN.

PERHAPS YOUR FAMILIAR WITH THE STORY OF DANNY SOKOL, WHO WAS ALSO ACTIVE IN THIS STATE LAST JANUARY. SOKOL HAD BEEN CONVICTED OF SECOND-DEGREE MURDER AND SENTENCED TO SEVENTY-FIVE YEARS IN STATE PRISON. HE WAS PAROLED IN 1991 AFTER SERVING ONLY NINE YEARS OF HIS SENTENCE. THIS PAST JANUARY, HE ATTACKED AN ELEVEN-YEAR-OLD GIRL AT GUNPOINT AND FORCED HER INTO HER APARTMENT. THE GIRL'S FATHER WAS PRESENT IN THE APARTMENT AND, AFTER A GUN BATTLE, SOKOL FLED THE SCENE AND WAS LATER APPREHENDED BY POLICE. THE GIRL'S FATHER TOLD POLICE THAT SOKOL WAS PREPARING TO RAPE HIS DAUGHTER. INDEED, SOKOL LEFT BEHIND HANDCUFFS, SURGICAL GLOVES AND TAPE, A VIDEOCASSETTE, AND VARIOUS OTHER ITEMS. AGAIN, SOKOL SHOULD HAVE BEEN LOCKED SECURELY BEHIND BARS, INSTEAD OF RUTHLESSLY PREYING ON

THE CHILDREN OF FLORIDA.

FLORIDA'S PRISON CRISIS HAS HAD A DIRECT AND TRAGIC EFFECT ON LAW ENFORCEMENT OFFICERS AS WELL. IN PARTICULAR, I'M THINKING OF THE CASE OF CHARLES STREET. STREET WAS CONVICTED OF ATTEMPTED MURDER, BUT SERVED ONLY ABOUT HALF OF HIS FIFTEEN-YEAR SENTENCE. TEN DAYS AFTER STREET WAS RELEASED FROM PRISON EARLY BECAUSE OF OVERCROWDING, HE WAS ARRESTED AND CHARGED IN THE KILLING OF TWO DADE COUNTY POLICE OFFICERS.

I COULD TELL THESE KINDS OF HORROR STORIES ALL DAY LONG AND I AM SURE THAT EACH OF YOU KNOWS MANY MORE. BUT I THINK MY POINT IS MADE. THERE ARE SEVERE AND REAL COSTS TO SOCIETY WHEN GOVERNMENT NEGLECTS LAW ENFORCEMENT. SPENDING MONEY ON LAW ENFORCEMENT, THEN, IS AN INVESTMENT, AND A SMART ONE AT THAT. IT WILL PAY PRECIOUS DIVIDENDS BY PROTECTING THE LIVES OF OUR CHILDREN, OUR FAMILIES, AND ALL OF OUR FELLOW

CITIZENS.

THE SITUATION IN THE FLORIDA PRISON SYSTEM WOULD BE UNBELIEVABLE IF IT WERE NOT TRUE. IT WOULD BE RIDICULOUS IF IT WERE NOT SO TRAGIC. FLORIDA'S CRIME RATE IS HIGH AND RISING, BUT THAT FACT IS NOT SURPRISING IN LIGHT OF ITS PRISON POLICY. AND IF SOMETHING IS NOT DONE SOON, IT WILL ONLY GET WORSE. PUTTING STATISTICS ASIDE, COMMON SENSE PREDICTS THE RESULT OF THE CURRENT CRISIS. BECAUSE THERE IS NOT ADEQUATE PRISON SPACE TO HOUSE VIOLENT OFFENDERS, THESE FELONS ARE RELEASED EARLY, UNDER VARIOUS PLANS FOR GIVING CREDIT SUCH AS THE "GAIN-TIME" SCHEME. THE FACT THAT PRISON SENTENCES ARE MUCH SHORTER THAN THEY SHOULD BE EFFECTS AN INCREASE IN THE CRIME RATE IN TWO WAYS.

FIRST, VIOLENT OFFENDERS ARE RELEASED ONTO THE STREETS TO COMMIT MORE CRIME. SO, INSTEAD OF BEING

INCAPACITATED IN THEIR PRISON CELLS, THESE PEOPLE ARE TERRORIZING OUR NEIGHBORHOODS. SECOND, SINCE THE WORD IS OUT THAT MOST PEOPLE DO NOT DO ANY SERIOUS TIME IN FLORIDA, THE DETERRENT EFFECT OF PUNISHMENT IS GREATLY REDUCED, AND CRIME INCREASES. THE SENTINEL SERIES QUOTED RON CHAPMAN, A DETECTIVE IN THE ORANGE COUNTY SHERIFF'S OFFICE, AS SAYING: "THESE GUYS LAUGH IN OUR FACE WHEN WE ARREST THEM, BECAUSE THEY KNOW THEY AREN'T GOING TO GET ANY TIME."

AS CRIME INCREASES, WE CONVICT MORE CRIMINALS TO FILL OUR JAILS. BUT AS WE CONVICT MORE CRIMINALS, WE EXACERBATE THE ALREADY DIRE OVERCROWDING PROBLEM. AS THE OVERCROWDING WORSENS, THIS CREATES INCREASED PRESSURE, UNDER FLORIDA'S WAY OF DOING THINGS, TO RELEASE INMATES EVEN EARLIER. AS YOU CAN SEE, THIS MERELY CREATES A DOWNWARD SPIRAL INTO EVER DECREASING TIME SERVED BY CRIMINALS, AND EVER INCREASING CRIME ENDURED BY SOCIETY.

THAT IS WHY FLORIDA'S CRIMINALS SERVE ON AVERAGE ONLY 33% PERCENT OF THEIR SENTENCES, AND WHY THIS FIGURE CONTINUES TO FALL. THAT IS WHY FLORIDA'S CRIME RATE CONTINUES TO ESCALATE. THAT IS WHY FLORIDA'S PRISON OFFICIALS ARE LEFT TO DEAL WITH THE FRUSTRATING KNOWLEDGE THAT THEY ARE RELEASING DANGEROUS FELONS INTO THEIR OWN COMMUNITIES EVERY DAY AND ARE SEEMINGLY POWERLESS TO DO ANYTHING ABOUT IT. THESE OFFICIALS MUST FEEL LIKE THEY ARE BAILING WATER OUT OF A BOAT WITH A GAPING HOLE IN IT, FURIOUSLY WORKING JUST TO STAY AFLOAT.

IT IS TIME FOR THE PEOPLE OF FLORIDA TO STEP IN AND RESCUE THEMSELVES FROM THIS INTOLERABLE SITUATION. THEY KNOW THAT ALL OF THESE COMPLEX MATHEMATICAL CALCULATIONS INVOLVING "GAIN TIME" AND THE LIKE ALL ADD UP TO ONE SIMPLE THING: REVOLVING DOOR JUSTICE. THIS DEVIOUS PENAL ARITHMETIC CANNOT DISGUISE WHAT IS REALLY HAPPENING. YOU CAN BE SURE THAT THE CRIMINALS

ARE GETTING THE MESSAGE LOUD AND CLEAR. THEY HAVE SHOWN BY THEIR ACTIONS THAT THEY FULLY REALIZED THAT THEY ARE DEALING WITH A GOVERNMENT THAT IS NOT SERIOUS ABOUT PUNISHING THEM, AND WITH A COMMUNITY THAT IS FAIR GAME FOR THEIR SICKENING AND HORRIFYING ACTS.

THE TIME FOR THEORETICAL ACADEMIC DISCUSSIONS ABOUT "ROOT CAUSES" AND REHABILITATION IS LONG PAST. NOW WE MUST ACT. WE MUST ACT FORCEFULLY, WE MUST ACT DECISIVELY, AND WE MUST ACT IMMEDIATELY. THE CRIES FOR LENIENCY WILL COME AGAIN AS THEY ALWAYS HAVE. AND THESE CRIES WILL COME AGAIN FROM THE SAME SOURCES. THE CRIES COME FROM THE CHAMPIONS OF THE SO-CALLED "RIGHTS" OF CRIMINALS, WHO DO NOT HAVE TO DEAL WITH THE BLUNT REALITY OF CRIME. THEY WILL COME FROM THE ACADEMICS AND THE EDITORIAL BOARDS IN THEIR PRISTINE IVORY TOWERS, WHERE THEY FORMULATE ALL SORTS OF SOCIAL THEORIES WITHOUT GIVING EVEN A THOUGHT TO REALITY. IN SHORT, THESE ARGUMENTS COME FROM THOSE SECTIONS OF

SOCIETY THAT ARE LEAST LIKELY TO BEAR THE HEAVY COSTS AND DANGEROUS CONSEQUENCES OF THEIR LOGICALLY AND MORALLY BANKRUPT SOCIAL THEORIES.

WE SHOULD NOT STAND BY AND CONTINUE TO BE GUINEA PIGS IN THEIR FAILED EXPERIMENT OF REHABILITATION. THEY HAVE NO QUALMS ABOUT RISKING THE LIVES OF THE GOOD CITIZENS OF THIS COUNTRY, EXPOSING THEM TO CRIMINALS WHO HAVE NOT BE ADEQUATELY PUNISHED FOR THEIR CRIMES. IT HAS BEEN SAID THAT WHEN YOU IGNORE REALITY, REALITY ALWAYS TAKES ITS REVENGE. WE ARE ALL NOW LIVING IN THE WRECKAGE OF THEIR FAILED EXPERIMENT. IT'S TIME FOR US TO DEFEND OURSELVES. IT'S TIME TO TAKE BACK OUR STREETS, RECLAIM OUR NEIGHBORHOODS, AND PUT THE CRIMINALS WHO TERRORIZE OUR COMMUNITIES IN PRISON AND KEEP THEM THERE.

FLORIDA'S CURRENT RESPONSE TO ITS CROWDED PRISON SYSTEM IS NOT A SOLUTION, BUT A RECIPE FOR MORE

DISASTER. RELEASING DANGEROUS CRIMINALS EARLY IS NOT A CURE, IT'S SIMPLY MORE OF THE DISEASE. THE ONLY REAL SOLUTION IS CLEAR. THERE MUST BE EXPANDED USE OF EXISTING PRISONS AND WE MUST CONTINUE TO BUILD MORE OF THEM. AS I STATED, THIS REQUIRES RESOURCES. BUT THESE RESOURCES ARE ESSENTIAL TO THE PROTECTION OF OUR LIVES AND SAFETY. THIS IS NOT A MATTER OF DISCRETION. THIS IS A REQUIREMENT OF DEMOCRACY AND A FOUNDATION FOR PROGRESS AS A SOCIETY.

NOW, THERE ARE SOME THAT SAY THAT RATHER THAN SPENDING RESOURCES ON LAW ENFORCEMENT TO DEAL WITH CRIME, WE SHOULD, INSTEAD, SPEND RESOURCES ON SOCIAL PROGRAMS TO GET AT THE ROOT CAUSES OF CRIME. SO WE HEAR IT SAID: "DON'T SPEND MORE MONEY ON POLICE OR PRISONS, SPEND THE MONEY ON SCHOOLS AND HOUSING." THESE PEOPLE MISS THE MARK.

OBVIOUSLY, IT IS TRUE THAT LAW ENFORCEMENT ALONE

CAN'T SOLVE THE PROBLEM OF CRIME. WE DO NEED SOCIAL PROGRAMS TO RESTORE AND TO REBUILD OUR COMMUNITIES. BUT ANY SUCH SOCIAL PROGRAM, WHETHER IT BE EDUCATION, OR HOUSING, OR JOB TRAINING, OR WHATEVER, MUST COMPLEMENT, NOT SUPPLANT AN EFFECTIVE LAW ENFORCEMENT PROGRAM.

LAW ENFORCEMENT AND EFFORTS AT SOCIAL REHABILITATION MUST GO HAND IN HAND. SOCIAL PROGRAMS CANNOT BE PURSUED AT THE EXPENSE OF OR AS A SUBSTITUTE FOR A STRONG LAW ENFORCEMENT PROGRAM IN THE COMMUNITY. ON THE CONTRARY, I THINK IT IS BECOMING INCREASINGLY CLEAR THAT TOUGH LAW ENFORCEMENT IS AN ABSOLUTE PREREQUISITE TO THE SUCCESS OF ANY SOCIAL PROGRAMS.

THE PROBLEM TODAY IS THAT MANY EFFORTS AT REBUILDING OUR COMMUNITIES HAVE BEEN STRANGLERED BY CRIME ITSELF. WE BUILD PUBLIC HOUSING, ONLY TO SEE IT TAKEN OVER BY DRUG TRAFFICKERS. WHERE THERE IS A

PERVASIVE ATMOSPHERE OF CRIME AND VIOLENCE, EVEN THE MOST EFFECTIVELY DESIGNED SOCIAL PROGRAMS CANNOT TAKE ROOT. ON THE CONTRARY, THEY WILL BE OVERWHELMED WITHOUT FIRM MEASURES TO SUPPRESS THE INCIDENCE OF CRIME. FUNDS SPENT ON SOCIAL PROGRAMS WILL BE WASTED, UNLESS RESOURCES ARE ALSO SPENT ON LAW ENFORCEMENT TO PROVIDE FERTILE GROUND FOR THE SUCCESS OF THOSE PROGRAMS.

SO, I THINK SOCIETY MUST COME TO RECOGNIZE THAT LAW ENFORCEMENT IS THE FOUNDATION UPON WHICH ALL ELSE MUST BE BUILT. THOSE WHO WANT TO PURSUE VARIOUS OTHER SOCIAL PROGRAMS TO BUILD A BETTER SOCIETY SHOULD BE THE FIRST TO SAY LET'S MAKE SURE, FIRST OF ALL, THAT WE ARE INVESTING ADEQUATE RESOURCES IN LAW ENFORCEMENT. BECAUSE, WITHOUT THAT INVESTMENT, ALL THESE OTHER EFFORTS AND ALL THESE OTHER DREAMS WILL COME TO NAUGHT.

THERE ARE ALSO THOSE WHO SAY THAT IN THESE TIGHT FISCAL TIMES, WE CANNOT AFFORD TO INVEST MORE MONEY IN ANYTHING, INCLUDING LAW ENFORCEMENT. THESE PEOPLE ARE SERIOUSLY MISGUIDED. THERE IS A TENDENCY TODAY TO FOCUS ON THE COSTS OF PROVIDING AN EFFECTIVE LAW ENFORCEMENT SYSTEM, ON THE COSTS OF POLICE, ON THE COSTS OF EQUIPMENT, AND THE COSTS OF MORE PRISON SPACE. BUT I THINK IT IS TIME WE FOCUSED ON THE COSTS OF FAILING TO PROVIDE THESE RESOURCES.

SIMPLY PUT, THE MORE YOU LOOK AT IT, THE MORE YOU WILL SEE THAT POLICE, PROSECUTORS AND PRISONS ARE A SOUND INVESTMENT, ALTHOUGH LAW ENFORCEMENT IS NOT CHEAP, THE COST TO SOCIETY OF NOT PROVIDING EFFECTIVE LAW ENFORCEMENT IS UNBEARABLE.

JUST LOOK AT THE COSTS OF VIOLENT CRIME ALONE, TO SAY NOTHING OF FRAUD AND ALL THE OTHER KINDS OF NONVIOLENT CRIME. A STUDY PUBLISHED IN 1988, BY MARK

COHEN, FORMERLY ON THE STAFF OF THE U.S. SENTENCING COMMISSION, ESTIMATED THAT ANNUAL AGGREGATE COSTS OF VICTIMS OF CRIME WAS \$92.6 BILLION A YEAR IN 1985 DOLLARS. TODAY, THE COSTS OF TREATING GUNSHOT WOUNDS IN EMERGENCY ROOMS IN HOSPITALS COSTS OUR SOCIETY \$5 BILLION A YEAR.

THERE ARE OTHER COSTS OF VIOLENT CRIME THAT WE SOMETIMES DON'T THINK ABOUT. IF WE DON'T PAY WHAT IS NECESSARY TO CATCH AND PUT BARS AROUND THE PREDATORS, THEN THE VICTIMS PAY TO PUT BARS AROUND THEMSELVES. I VISITED MANY INNER-CITY NEIGHBORHOODS RECENTLY, AND I HAVE SEEN ROW UPON ROW OF HOUSES SURROUNDED BY BARS, BARS ON WINDOWS AND BARS ON DOORS. THE AMOUNT OF MONEY THAT WE, AS A SOCIETY, SPEND ON THESE AND OTHER PRIVATE SECURITY MEASURES, ESSENTIALLY TO MAKE OURSELVES PRISONERS IN OUR OWN HOMES, IS STAGGERING.

THEN, OF COURSE, THERE ARE OTHER COSTS THAT ARE

LARGER AND INCALCULABLE. THESE INCLUDE LOST SALES WHEN PEOPLE ARE AFRAID TO GO OUT AND DO THEIR SHOPPING, AND LOST JOBS WHEN BUSINESSES MOVE OUT OF HIGH-CRIME AREAS, LOST TAX REVENUES WHEN BUSINESSES, SALES, AND JOBS EVAPORATE, AND, PERHAPS MOST IMPORTANTLY, LOST OPPORTUNITIES WHEN SCHOOLS BECOME THE PLAYGROUNDS OF GANGS AND DRUG DEALERS, RATHER THAN PLACES WHERE KIDS CAN LEARN THEIR WAY OUT OF POVERTY.

IF YOU STOP TO CONSIDER THE ISSUE, IT BECOMES IMMEDIATELY CLEAR THAT INVESTMENT IN STRONG LAW ENFORCEMENT IS AN ECONOMIC NECESSITY. YET, DESPITE THE ENORMOUS NEEDS THAT EXIST TODAY, SPENDING ON LAW ENFORCEMENT REMAINS A SMALL PERCENTAGE OF THE PUBLIC BUDGET. WE NEED MORE RESOURCES AND WE NEED TO USE THE RESOURCES THAT WE HAVE AS EFFICIENTLY AS POSSIBLE. TWO EXAMPLES FROM FLORIDA ARE USEFUL. FIRST, FLORIDA HAS A PROGRAM IN WHICH THE INMATES THEMSELVES BUILD ADDITIONAL PRISONS. EXPERIENCE HAS SHOWN THAT THESE

INMATES CAN CONSTRUCT A PRISON FOR ONE THIRD LESS THAN THE MARKET COST AND THEY CAN DO IT IN LESS TIME. THEY ARE ALSO LEARNING VALUABLE SKILLS IN THE PROCESS. I APPLAUD THIS INGENIOUS AND EFFICIENT USE OF LAW ENFORCEMENT RESOURCES THAT SERVES AS A MODEL FOR OTHER STATES.

HOWEVER, THE FUNDING OF PRISONS IN FLORIDA HAS SOMETIMES BORDERED ON THE IRRATIONAL. YOU PROBABLY KNOW THAT FLORIDA HAS TWO NEW PRISONS READY TO ACCEPT INMATES. YET EVEN THOUGH YOUR STATE HAS AN INEXCUSABLE POLICY OF EARLY RELEASE IN THE FACE OF OVERCROWDING, THESE TWO PRISONS REMAIN EMPTY. INSTEAD OF FILLING THOSE THREE THOUSAND EMPTY BEDS WITH DANGEROUS CRIMINALS, THE STATE RELEASES THOSE CRIMINALS BECAUSE IT REFUSES TO FUND THE OPERATION OF PRISONS THAT IT HAS ALREADY BUILT. SO, NOW FLORIDA IS FACED WITH THE SUNK COST OF PRISON CONSTRUCTION BUT REFUSES TO GENERATE THE SOCIAL BENEFITS OF OPERATING

THESE PRISONS. THIS ACTION IS, QUITE SIMPLY, FISCALLY IRRESPONSIBLE.

IN INNUMERABLE OTHER AREAS OF SOCIETY, WE HAVE RECOGNIZED THE NEED TO INVEST SUBSTANTIAL RESOURCES IN ORDER TO AVOID THE RISK OF HARM. FOR EXAMPLE, WE INVEST TENS OF BILLIONS OF DOLLARS TO REDUCE THE LOSS OF LIFE IN CAR ACCIDENTS, INCLUDING INVESTMENT IN HIGHWAY BARRIERS AND SAFETY DEVICES, AND WE SPEND TENS OF BILLIONS TO REGULATE AIR QUALITY AND BILLIONS TO REGULATE HAZARDOUS WASTE DISPOSAL, IN ORDER TO AVOID THE HARM CAUSED BY EXPOSURE TO POLLUTANTS AND TOXINS.

THE PUBLIC APPEARS TO ACCEPT THE NEED FOR THESE SUBSTANTIAL EXPENDITURES, EVEN THOUGH SOME OF THEM GUARD AGAINST RELATIVELY REMOTE THREATS. WE ARE WILLING, AS A SOCIETY, TO SPEND MILLIONS OF DOLLARS TO SAVE ONE LIFE, TO AVOID ONE PREMATURE DEATH.

FOR EXAMPLE, EACH YEAR, STATEWIDE PERIODIC MOTOR VEHICLE INSPECTION PROGRAMS COST \$12.6 MILLION FOR EACH LIFE SAVED BY THE PROGRAM. VARIOUS ACADEMIC STUDIES OF PEOPLE'S WILLINGNESS TO PAY TO AVOID RISKS OF DEATH OR SERIOUS HARM INDICATE THAT PUBLIC SPENDING OF UP TO \$2.6 MILLION TO AVERT ONE DEATH WOULD BE JUSTIFIED.

IF WE APPLIED THE SAME LOGIC AND THE SAME COST-BENEFIT ANALYSIS THAT IS USED IN OTHER PUBLIC HEALTH AND SAFETY PROGRAMS, WE WOULD BE PROPERLY INVESTING MUCH GREATER AMOUNTS IN LAW ENFORCEMENT. NOW, I AM NOT SUGGESTING THAT WE DOUBLE OR TRIPLE OUR LAW ENFORCEMENT BUDGET, ALTHOUGH USING THE CALCULUS I HAVE DISCUSSED, THAT MIGHT BE JUSTIFIED. BUT I AM SAYING THAT THE NOTION THAT WE CANNOT AFFORD TO SPEND MORE FOR LAW ENFORCEMENT IS FLATLY WRONG.

SOCIETY'S THINKING ON THIS MATTER IS NARROW AND

SHORT-SIGHTED. WE MUST EXPAND OUR FOCUS AND BROADEN OUR VIEW. OUR ENVIRONMENT IS NOT JUST THE AIR THAT WE BREATHE AND THE WATER AND LAND THAT SURROUND US. OUR ENVIRONMENT ALSO INCLUDES THE CITY THAT WE WORK IN AND THE STREET THAT WE LIVE ON. WHILE I BELIEVE THAT WE MUST TAKE RATIONAL STEPS TO PROTECT OUR NATURAL ENVIRONMENT, I ALSO BELIEVE THAT THE MOST DANGEROUS TOXIC EMISSION IN FLORIDA TODAY IS SPEWING FROM THE REVOLVING GATES OF ITS PRISONS. I DON'T HAVE TO TELL YOU THAT THERE IS NO MORE PERNICIOUS FORM OF AIR POLLUTION THAN BULLETS FLYING FROM THE GUNS OF RECIDIVISTS WHO SHOULD BE SERVING OUT THEIR FULL TERMS. THE CRIME PROBLEM IS THE MOST DIRECT AND IMMEDIATE THREAT TO THE HEALTH AND SECURITY OF THE CITIZENS OF FLORIDA. THE CONTINUOUS DUMPING OF DANGEROUS CRIMINALS INTO FLORIDA COMMUNITIES BY AN UNDERFUNDED PRISON SYSTEM MUST STOP AND STOP NOW.

THE SECOND MAJOR TASK FOR LAW ENFORCEMENT IS THE

1990'S IS, AS I HAVE STATED, TO PRESS FOR URGENTLY NEEDED REFORMS OF OUR LEGAL SYSTEM AND OUR CRIMINAL JUSTICE SYSTEM AT BOTH THE STATE AND THE FEDERAL LEVEL. DURING THE 1960'S AND THE 1970'S, OUR CRIMINAL JUSTICE SYSTEM GOT SERIOUSLY OFF TRACK, AS ALL OF YOU KNOW. IT GOT SKEWED MUCH TOO MUCH IN FAVOR OF THE CRIMINAL, AT THE EXPENSE OF SOCIETY'S RIGHTS. IN THE 1980'S WE STARTED THE DIFFICULT TASK OF RESTORING THE CRIMINAL JUSTICE SYSTEM TO IT PROPER AND CONSTITUTIONAL FUNCTION. WE BEGAN REBALANCING THE CRIMINAL JUSTICE SYSTEM, TO GIVE GREATER WEIGHT TO THE RIGHTS OF SOCIETY AND TO VICTIMS, AND WE HAVE MADE PROGRESS.

AT THE FEDERAL LEVEL, PRESIDENT'S REAGAN AND BUSH HAVE MADE IT A PRIORITY TO SELECT JUDGES WHO WOULD BE TRUE TO THE LANGUAGE OF THE CONSTITUTION AND MORE SUPPORTIVE OF THE LEGITIMATE NEEDS OF LAW ENFORCEMENT. TODAY, 5 OUT OF THE 9 SUPREME COURT JUSTICES AND 60%

OF THE FEDERAL JUDGES HAVE BEEN APPOINTED BY EITHER PRESIDENT REAGAN OR PRESIDENT BUSH. AND SLOWLY, WE HAVE SEEN THE FEDERAL COURTS CURB SOME OF THE UNJUSTIFIED JUDICIAL EXCESSES OF THE 1960'S AND 1970'S, AND A MORE BALANCED JURISPRUDENCE, FAITHFUL TO THE CONSTITUTION, HAS BEGUN TO EMERGE.

DURING THE 60'S AND 70'S, THE SUPREME COURT TURNED THE CONSTITUTION OF THE UNITED STATES INTO A BLANKET OF PROTECTION FOR CRIMINAL ACTIVITY. IT DISTORTED THAT GREAT FOUNDING DOCUMENT SO THAT IT COULD IMPOSE ITS OWN PERSONAL POLITICAL BELIEFS AND ERRANT SOCIAL THEORIES. IN THE PROCESS, THAT COURT DID GREAT DAMAGE NOT ONLY TO THE CONSTITUTION, BUT TO OUR SOCIETY. IT UNJUSTLY USED THE CONSTITUTION AS A VEHICLE TO FREE MURDERERS, RAPISTS, AND VARIOUS OTHER SCOUNDRELS, AND AT THE SAME TIME USED IT TO HANDCUFF THE POLICE, PROSECUTORS, AND JUDGES WHO REMAINED TRUE TO THEIR OATHS. THAT COURT HIJACKED OUR CRIMINAL JUSTICE

SYSTEM AND, IN THE PROCESS, PUT ALL OF OUR LIVES AT RISK. WE ARE STILL RECOVERING. SLOWLY, THE FEDERAL JUSTICES AND JUDGES APPOINTED BY PRESIDENTS BUSH AND REAGAN ARE SETTING THINGS STRAIGHT AND ENFORCING THE CONSTITUTION AND LAWS OF THIS NATION.

JUST AS IMPORTANTLY DURING THE 1980'S, WE HAVE MADE SIGNIFICANT ADVANCES IN REFORMING THE CRIMINAL JUSTICE SYSTEM THROUGH LEGISLATIVE ACTION. AT THE FEDERAL LEVEL, WE OBTAINED EFFECTIVE PREVENTATIVE DETENTION AND SENTENCING REFORM, LAW ENFORCEMENT HAS BEEN GIVEN IMPORTANT NEW TOOLS LIKE ASSET FORFEITURE AND MANDATORY MINIMUM SENTENCES, AND MANY STATES WERE ABLE TO ACCOMPLISH SIGNIFICANT REFORMS IN THE EIGHTIES AS WELL.

BUT WHILE WE HAVE MADE SIGNIFICANT PROGRESS IN STRENGTHENING THE CRIMINAL JUSTICE SYSTEM, MUCH REMAINS TO BE DONE TO UNDO THE DAMAGE CAUSED BY TWO

NEARLY DECADES OF EXCESS AND NEGLECT. WE HAVE TO PUSH FORWARD AND FINISH THE JOB. WE MUST NEVER ALLOW GOVERNMENT TO RETURN TO THE DAYS WHEN IT ERECTS COUNTLESS ARTIFICIAL PROCEDURAL HURDLES TO CRIME FIGHTING WITH NO BASIS IN OUR CONSTITUTION, DESIGNED TO PROTECT THE GUILTY AT THE EXPENSE OF THE INNOCENT.

AT THE FEDERAL LEVEL, THE PRESIDENT'S CRIME BILL WILL CARRY OUT THIS UNFINISHED AGENDA. HE IS SEEKING, AS YOU KNOW, THE DEATH PENALTY AND STRICTER PENALTIES FOR FELONS WHO USE FIREARMS. HE IS SEEKING A BROADENING OF THE GOOD-FAITH EXCEPTION TO THE EXCLUSIONARY RULE. AND, HE IS SEEKING AN END TO THE ONGOING AND WIDESPREAD ABUSE OF THE WRIT OF HABEAS CORPUS. THAT IS WHY THE PRESIDENT'S CRIME BILL IS SO IMPORTANT. YOU ALL KNOW THIS AND YOUR ASSOCIATION HAS BEEN FIRMLY BEHIND THE CRIME BILL. THE ADMINISTRATION APPRECIATES YOUR STRONG SUPPORT.

BUT REFORM ON THE FEDERAL LEVEL CAN ONLY HAVE A LIMITED IMPACT ON VIOLENT CRIME. WE STILL NEED LEGAL REFORM AT THE STATE LEVEL. WHILE SOME STATES DID MUCH TO BRING THEIR SYSTEMS UP TO DATE IN THE 1980S, MANY STATES UNFORTUNATELY HAVE LAGGED BEHIND. MANY STATES LACK EFFECTIVE PRETRIAL DETENTION LAWS, FOR EXAMPLE, OR SENTENCING SCHEMES, OR FUNCTIONING JUVENILE JUSTICE SYSTEMS.

I WILL SOON BE RELEASING A COMPREHENSIVE VIOLENT CRIME REPORT THAT CONTAINS 24 SPECIFIC RECOMMENDATIONS ON STRENGTHENING STATE CRIMINAL JUSTICE SYSTEMS. IT CONTAINS, AMONG OTHER THINGS, SPECIFIC RECOMMENDATIONS ON TRUTH IN SENTENCING, UPDATED EVIDENTIARY RULES TO ENHANCE THE TRUTH-FINDING FUNCTION OF THE TRIAL, IMPROVEMENTS IN THE JUVENILE JUSTICE SYSTEM, AND PROVISIONS WHICH PROTECT THE ROLE OF THE VICTIM THROUGHOUT THE CRIMINAL JUSTICE PROCESS. IN ADDITION, WE ALSO HAVE TO STAY THE COURSE ON JUDICIAL SELECTINS.

I HOPE THAT THE FLORIDA SHERIFFS ASSOCIATION FINDS THE REPORT USEFUL IN YOUR CONTINUING EFFORTS TO STRENGTHEN AND IMPROVE THE CRIMINAL JUSTICE SYSTEM.

THE THIRD CHALLENGE THAT WE FACE IN THE 1990'S, IN ADDITION TO RESOURCES AND REFORM, IS THE NEED TO STRENGTHEN COOPERATION AT ALL LEVELS OF LAW ENFORCEMENT. MY FIRST MEETING AS ATTORNEY GENERAL WAS WITH THE UNITED STATES ATTORNEYS. I TOLD THEM THAT I WANTED THE WATCHWORD OF MY TENURE TO BE "TEAMWORK," PARTICULARLY AMONG FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT.

WE NEED TO BETTER OURSELVES BY WORKING TOGETHER. SOMETIMES THIS MEANS CLOSER COOPERATION, SOMETIMES THIS MEANS ENGAGING IN JOINT OPERATIONS AND TASK FORCES. THIS ADMINISTRATION BELIEVES IN FORGING A STRONG WORKING PARTNERSHIP AMONG ALL LAW ENFORCEMENT ENTITIES. SINCE BECOMING ATTORNEY GENERAL, I HAVE PUT

EMPHASIS ON EXPANDING AREAS OF COOPERATION AND JOINT ENFORCEMENT ACTIVITY, SEEKING NEW RESOURCES FOR DRUG TASK FORCES, VIOLENT CRIME TASK FORCES, AND FUGITIVE TASK FORCES THAT WOULD ASSIST IN SUPPORTING LOCAL LAW ENFORCEMENT.

WE HAVE INITIATED A NUMBER OF PROGRAMS WHERE, BY WORKING JOINTLY WITH STATE AND LOCAL LAW ENFORCEMENT, WE THINK WE CAN BE MORE EFFECTIVE. LET ME JUST GIVE YOU A FEW EXAMPLES.

I THINK YOU ARE FAMILIAR WITH OPERATION TRIGGER LOCK, WHICH IS A COOPERATIVE EFFORT WHERE WE USE OUR FEDERAL FIREARM STATUTES TO GIVE STIFF MANDATORY SENTENCES TO CHRONIC OFFENDERS. IN THE FIRST YEAR OF THE TRIGGER LOCK PROGRAM, WHICH WE STARTED IN APRIL, 1991, WE HAVE CHARGED OVER 6,400 CHRONIC VIOLENT OFFENDERS. THIS IS DOUBLE OUR PRIOR RATE OF PROSECUTION AT THE FEDERAL LEVEL FOR FIREARMS

OFFENSES. IN ADDITION, WE ARE NOW CONVICTING OVER 90% OF THESE INDIVIDUALS AND AVERAGING SEVEN-YEAR MANDATORY SENTENCES. AND FOR THREE-TIME LOSERS, WE ARE AVERAGING EIGHTEEN-YEAR SENTENCES. THESE ARE MANDATORY SENTENCES WITH NO POSSIBILITY OF PAROLE.

NOW, SOME PEOPLE ARE TALKING ABOUT 5 OR 7-DAY WAITING PERIODS FOR HANDGUNS - - EIGHTEEN YEARS IS THE KIND OF WAITING PERIOD THAT I LIKE.

ANOTHER AREA WHERE WE ARE WORKING JOINTLY WITH STATE AND LOCAL LAW ENFORCEMENT IS IN THE AREA OF GANGS. OUR FEDERAL RICO STATUTE GIVES US A POWERFUL TOOL AGAINST THESE VIOLENT ORGANIZATIONS. OUR PILOT PROGRAM WAS IN PHILADELPHIA. THERE, OUR JOINT FEDERAL, STATE AND LOCAL TASK FORCE DESTROYED 38 STREET GANGS BY SUCCESSFULLY SWEEPING UP AND CONVICTING 600 KEY GANG MEMBERS ON FEDERAL RICO CHARGES. IN JANUARY, WE TOOK THIS PROGRAM NATIONWIDE,

SEEKING TO ESTABLISH SIMILAR TASK FORCES IN CITIES ACROSS THE COUNTRY THAT HAVE SIGNIFICANT GANG PROBLEMS.

ANOTHER AREA WHERE WE HAVE INITIATED NEW POLICIES TO SUPPORT OUR COLLEAGUES IN STATE AND LOCAL LAW ENFORCEMENT IS IN PRISON AND JAIL LITIGATION. IN JANUARY, I STATED OUR POSITION THAT THE BUSINESS OF RUNNING CORRECTIONAL FACILITIES BELONGS TO STATE OFFICIALS, NOT TO JUDGES AND SPECIAL MASTERS. I ANNOUNCED THAT THE DEPARTMENT OF JUSTICE WOULD SUPPORT THOSE STATES THAT ARE OPERATING THEIR PRISONS AND JAILS IN GOOD FAITH COMPLIANCE WITH THE CONSTITUTION AND THAT SEEK RELIEF FROM JUDICIALLY IMPOSED PRISON CAPS AND OTHER UNDUE CONSTRAINTS. IN LINE WITH THIS POLICY, WE HAVE RECENTLY TAKEN ACTION IN MICHIGAN, TEXAS, AND THE CITY OF PHILADELPHIA, TO HELP THEM TERMINATE PRISON CAPS AND COURT MICRO-MANAGEMENT OF THEIR FACILITIES. ANOTHER WAY WE CAN ASSIST OUR

STATE AND LOCAL COLLEAGUES IS WITH OUR JUSTICE ASSISTANCE GRANTS AND OTHER FUNDS DISTRIBUTED BY THE DEPARTMENT'S OFFICE OF JUSTICE PROGRAMS, AND ALSO WITH THE TECHNICAL ASSISTANCE THAT WE PROVIDE THROUGH SUCH ENTITIES AS THE NIC. SOME OF YOU WHO ATTENDED OUR CORRECTIONAL SUMMIT KNOW THAT WE HAVE SUBSTANTIALLY INCREASED THE RESOURCES TO NIC TO HELP SHERIFFS AND OTHER CORRECTIONAL OFFICIALS MANAGE THE SERIOUS PROBLEMS THAT WE CONFRONT IN THE CORRECTIONS AREA.

AS I TOLD YOU, THE CHALLENGES THAT WE FACE ARE FORMIDABLE ONES. HOWEVER, I BELIEVE THAT IF WE INVEST ADEQUATE RESOURCES, ACHIEVE NECESSARY LEGAL REFORMS, AND WORK COOPERATIVELY, THEN TOGETHER WE CAN REDUCE CRIME AND MORE EFFECTIVELY PROTECT THE PUBLIC.

YOUR LEADERSHIP WILL BE CRITICAL IN THIS ENDEAVOR AS IT HAS ALWAYS BEEN. THE DEVOTION AND DEDICATION OF PEOPLE LIKE YOU TO THE CAUSE OF CRIME FIGHTING GIVES

ME GREAT CONFIDENCE THAT WE WILL SUCCEED IN ACHIEVING
THE GOALS THAT I HAVE DISCUSSED.

IN CLOSING, I JUST WANT TO ASSURE YOU THAT YOU
HAVE MY GRATITUDE. YOU HAVE MY ADMIRATION. AND YOU
HAVE MY SOLEMN PROMISE THAT I WILL DO EVERYTHING IN MY
POWER TO HELP YOU AND SUPPORT YOU IN YOUR GREAT BATTLE
TO PROTECT YOUR COMMUNITIES.

THANK YOU AND GOD BLESS ALL OF YOU.

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Section: NATIONAL NEWS

SOUTHERN SUMMIT TACKLES PROBLEM OF SOARING CRIME

Richard Greer STAFF WRITER

Southern communities are eroding under soaring crime rates, prompting politicians, police and judges to put their heads together in a search for solutions.

"This region is reeling under the impact of violent crime," Justice Department official Elliott Brown said Wednesday, the second day of a crime summit in Charlotte, N.C.

Participants in the Southeast Region Summit on Violent Crime acknowledged that the Southeast, once known for small-town hospitality, is no longer among the safer places to live.

Violent crime soared 25 percent in the Southeast between 1986 and 1990. In 1990, the South, with 34.4 percent of the country's population, accounted for 36 percent of the nation's violent crime, according to Justice Department statistics. Forty-three percent of the country's murders took place in the South.

"We're not just talking the larger cities. It's small towns," said Mr. Brown, acting director of the U.S. Bureau of Justice Assistance, which helped organize the conference. "It's a cancer that's reaching throughout."

Criminal justice leaders are sharing tactics to get neighborhood residents involved in fighting gangs and drug dealing. Mr. Brown points to the region as the front door for much of the country's drug supply.

"The question we have to answer is what do we have to do to stop this onslaught of crime," North Carolina Gov. Jim Martin said during one session. "We know there are no easy answers, but there are answers."

U.S. Attorney General William Barr told the group that more social programs aren't the answer.

"Now is not the time to scrimp on law enforcement," he said.

The Associated Press contributed to this article.

Southern communities are eroding under soaring crime rates, prompting politicians, police and judges to put their heads together in a search for solutions. Participants in the Southeast Region Summit on Violent Crime in Charlotte, N.C., acknowledged that the Southeast, once known for small-town hospitality, is no longer among the safer places to live.

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NewsRoom

IT IS A GREAT PRIVILEGE TO HAVE THIS OPPORTUNITY TO SPEAK TO THIS PREMIERE FORUM, ONE THAT IS SO INVOLVED WITH THE CRITICAL ISSUES OF THE DAY.

TODAY I WANT TO SPEAK TO YOU ABOUT ONE OF THOSE CRITICAL ISSUES, ONE THAT I KNOW IS OF CONCERN HERE IN LOS ANGELES.

THAT IS THE ISSUE OF VIOLENT CRIME.

I DON'T HAVE TO TELL YOU THAT IN THE AREA OF VIOLENT CRIME, WE ARE AT A CRITICAL JUNCTURE.

VIOLENCE IS AT INTOLERABLY HIGH LEVELS.

MURDERS AND RAPES ARE ON THE INCREASE.

GANG VIOLENCE IS SPREADING.

CRIME SEEMS TO BE BECOMING MORE VICIOUS AND WANTON.

WHAT CAN WE DO ABOUT THIS?

THERE IS A TENDENCY IN PUBLIC DISCOURSE THESE DAYS TO DRAW A DICHOTOMY BETWEEN TWO DIFFERENT APPROACHES TO DEALING WITH VIOLENT CRIME.

ON THE ONE HAND, THERE IS THE LAW ENFORCEMENT APPROACH WHICH SEES CRIME AS CAUSED BY CRIMINALS AND SEEKS TO DEAL WITH CRIME BY USING AGGRESSIVE ENFORCEMENT AND TOUGH LAWS TO DETER OR TO INCAPACITATE VIOLENT CRIMINALS.

ON THE OTHER HAND, THERE IS THE SOCIAL REHABILITATION APPROACH TO VIOLENT CRIME. THIS TENDS TO SEE CRIME AS CAUSED BY SOCIETAL ILLS AND SEEKS TO DEAL WITH CRIME BY REMEDYING THESE ILLS THROUGH VARIOUS SOCIAL PROGRAMS.

PROponents OF THIS APPROACH SAY YOU CAN'T DEAL WITH CRIME BY SUPPRESSION, AND THAT WE NEED TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

NOW THE FACT IS, WE NEED BOTH APPROACHES OPERATING TOGETHER.

WE HAVE TO TAKE AGGRESSIVE STEPS TO SUPPRESS THE CRIMINALS OF TODAY WHO ARE WREAKING HAVOC TODAY.

AT THE SAME TIME, WE DO NEED PROGRAMS TO PREVENT (AS BEST WE CAN) THE YOUTH OF TODAY FROM BECOMING THE CRIMINAL OF TOMORROW.

HOWEVER, I THINK TOO MANY ADVOCATES OF ATTACKING "ROOT CAUSES" HAVE FAILED TO APPRECIATE THE NEED FOR VIGOROUS LAW ENFORCEMENT.

THEY TEND TO DISMISS RELIANCE ON POLICE, PROSECUTORS, AND PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED.

ALL TOO FREQUENTLY, THEY PRESENT THEIR SOCIAL PROGRAMS AS AN ALTERNATIVE TO TOUGH LAW ENFORCEMENT.

THEY SAY "LET'S NOT SPEND MORE MONEY ON POLICE AND PRISONS; LET'S SPEND IT ON SCHOOLS AND HOUSING."

TODAY, I WANT TO MAKE THREE POINTS.

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT SOCIAL PROGRAMS CANNOT SUBSTITUTE FOR TOUGH LAW ENFORCEMENT, AND THAT, THESE DAYS, IF ANYTHING, THE NEED FOR VIGOROUS LAW ENFORCEMENT IS PARAMOUNT.

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL PROGRAMS SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE.

I.

SO, FIRST LET ME TURN TO WHY I BELIEVE A TOUGH LAW ENFORCEMENT RESPONSE MUST BE PARAMOUNT.

I THINK, THOSE WHO WOULD GIVE SHORT SHRIFT TO SUPPRESSION OF CRIME THROUGH LAW ENFORCEMENT, BUT WOULD INSTEAD RELY ON SOCIAL ARE MISSING A BASIC POINT.

IN THIS PERVASIVE ATMOSPHERE OF VIOLENCE AND FEAR, EVEN THE BEST-DESIGNED SOCIAL PROGRAMS CANNOT TAKE ROOT.

THE PROBLEM TODAY IS THAT EFFORTS AT REVITALIZING OUR URBAN COMMUNITIES ARE BEING STRANGLERED BY CRIME.

AND IT IS INCREASINGLY CLEAR THAT SUPPRESSION OF CRIME IS AN ABSOLUTE PRE-REQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

WHAT GOOD IS IT TO BUILD PUBLIC HOUSING ONLY TO SEE IT TAKEN OVER AND RUN BY DRUG TRAFFICKERS?

WHAT GOOD IS IT TO PUT A "MODEL SCHOOL" IN OUR INNER-CITY NEIGHBORHOOD ONLY TO SEE IT BECOME A BATTLEGROUND FOR GANGS?

IT WAS ONCE A SHIBBOLETH THAT "POVERTY CAUSES CRIME".

BUT -- TODAY -- WHAT IS CLEAR IS THAT "CRIME IS CAUSING POVERTY."

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN NEIGHBORHOODS TAKING JOBS AND OPPORTUNITIES WITH THEM.

THE FACT IS THAT NO URBAN DEVELOPMENT PROGRAM CAN ARREST THE DECLINE OF OUR INNER CITIES -- AND NO ANTI-POVERTY SOCIAL PROGRAMS CAN TAKE HOLD -- UNLESS THEY ARE COMBINED WITH TOUGH LAW ENFORCEMENT MEASURES TO REDUCE CRIME.

II.

AND THAT BRINGS ME TO MY SECOND POINT -- HOW DO WE GO ABOUT, ON THE LAW ENFORCEMENT SIDE, HAVING A REAL IMPACT ON VIOLENT CRIME?

THE EVIDENCE IS CLEAR THAT THE PROBLEM OF VIOLENT CRIME TODAY IS LARGELY THE PROBLEM OF THE CHRONIC VIOLENT OFFENDER.

STUDY-AFTER-STUDY SHOW THAT THERE IS A TINY FRACTION OF THE POPULATION WHO ARE INCORRIGIBLE, HABITUAL VIOLENT OFFENDERS AND WHO COMMIT MOST OF THE PREDATORY VIOLENCE IN OUR SOCIETY.

EACH OF THESE CAREER CRIMINALS COMMITS A STAGGERING NUMBER OF CRIMES WHEN THEY ARE OUT ON THE STREETS.

FOR EXAMPLE, A 1980 STUDY OF 240 CRIMINALS FOUND THAT THIS SMALL GROUP WAS RESPONSIBLE FOR HALF A MILLION CRIMES OVER AN ELEVEN YEAR PERIOD -- AN AVERAGE OF 190 CRIMES A YEAR EACH.

NUMEROUS OTHER STUDIES SHOW THE SAME RESULTS.

WE KNOW THE PROFILE OF THESE CHRONIC OFFENDERS.

THEY START COMMITTING CRIMES AS JUVENILES AND KEEP RIGHT ON COMMITTING CRIMES AS ADULTS.

RECIDIVISM IS A VIRTUAL CERTAINTY.

WHenever they are let out of custody -- on bail, parole, or probation -- they are almost sure to commit new crimes.

THE CASE OF CHARLES FREDERICK WALKER, HERE IN LOS ANGELES, IS A GOOD EXAMPLE. WALKER, AGE 42, HAD AN EXTENSIVE JUVENILE RECORD. HIS FIRST ADULT CONVICTION WAS FOR ARMED ROBBERY AND HE WAS GIVEN PROBATION.

WITHIN A YEAR -- WHILE STILL ON PROBATION -- HE WAS CONVICTED OF 12 ARMED ROBBERIES.

AFTER SERVING 8 YEARS IN PRISON, HE WAS PAROLED, AND WITHIN 2 YEARS WAS CONVICTED OF 22 ARMED ROBBERIES.

AFTER SERVING 9 YEARS, HE WAS AGAIN PAROLED AND WITHIN MONTHS COMMITTED THREE BANK ROBBERIES. AS HE FLED THE LAST BANK, WALKER "CAR-JACKED" A 61-YEAR OLD MAN AND SHOT HIM IN THE NECK AND SHOULDER.

WITH THIS TYPE OF HABITUAL OFFENDER ONE THING IS CLEAR: THE ONLY TIME WE KNOW THEY ARE NOT COMMITTING CRIMES IS WHEN THEY ARE LOCKED UP.

IN COMBATTING VIOLENT CRIME, THEN, I BELIEVE, THE PRIMARY GOAL OF OUR CRIMINAL JUSTICE SYSTEM MUST BE TO IDENTIFY, TARGET, AND INCARCERATE THIS HARD CORE GROUP OF CHRONIC OFFENDERS -- MAKING THEM SERVE LONG SENTENCES AND HOLDING THEM IN CUSTODY FOR A LENGTH OF TIME DICTATED BY THE PUBLIC'S SAFETY.

IN MY VIEW, IF WE WANT TO REDUCE VIOLENT CRIME IN OUR LIFETIME OR IN OUR CHILDRENS' LIFETIME, THIS POLICY OF INCAPACITATING CHRONIC OFFENDERS IS THE ONLY POLICY THAT HAS ANY PROSPECTS FOR SUCCESS.

INDEED, THE HISTORY OF THE LAST 30 YEARS SHOWS CLEARLY THAT TOUGH INCARCERATION POLICIES WORK.

THE 1960'S AND 1970'S WAS THE ERA OF PERMISSIVENESS. FEWER VIOLENT OFFENDERS WERE SENT TO PRISON, AND THOSE THAT WERE SERVED SHORTER SENTENCES. INCARCERATION RATES FELL BY 20%.

THE RESULT: VIOLENT CRIME RATES SKYROCKETED, NEARLY QUADRUPLING FROM 1960 TO 1980.

IN THE 1980'S, WE STARTED TO TURN THIS AROUND. THE FEDERAL GOVERNMENT AND MANY STATES -- INCLUDING CALIFORNIA -- TOUGHENED UP THEIR CRIMINAL JUSTICE SYSTEMS AND EXPANDED PRISON CAPACITY.

WE STARTED TO SEND VIOLENT CRIMINALS TO PRISON ONCE AGAIN AND MADE THEM SERVE LONGER SENTENCES. IN FACT, INCARCERATION RATES DOUBLED DURING THE 1980'S, AND THE PRISON POPULATION GREW FROM ABOUT 300,000 TO ABOUT 800,000.

THE RESULT: THE SPIRALING CRIME RATES OF THE 60'S AND 70'S WERE ABRUPTLY HALTED.

NATIONALLY, THE VIOLENT CRIME RATE LEVELLED OFF AND EVEN EDGED SLIGHTLY DOWNWARD FOR SEVERAL YEARS.

AND, ALTHOUGH, STARTING WITH THE CRACK EPIDEMIC IN 1986-87, VIOLENT CRIME RATES WERE AGAIN MOVING UPWARD, THE FACT IS THAT,

TODAY, VICTIMIZATION RATES ARE STILL AGGRESSIVELY LOWER THAN THEY WERE IN 1980-81.

IF WE ARE GOING TO REDUCE VIOLENT CRIME, WE ARE GOING TO HAVE TO PRESS AHEAD AND FINISH THE JOB WE STARTED IN THE 1980'S, AND DO A BETTER JOB OF INCAPACITATING CHRONIC OFFENDERS.

THIS IS GOING TO TAKE GREAT COMMITMENT. AMONG OTHER THINGS IT WILL REQUIRE THAT WE CONTINUE TO MAKE SUBSTANTIAL INVESTMENTS IN OUR LAW ENFORCEMENT.

AT THE FEDERAL LEVEL, THE PRESIDENT HAS MADE LAW ENFORCEMENT A FUNDING PRIORITY.

OVER THE PAST THREE YEARS, THE DEPARTMENT OF JUSTICE'S BUDGET HAS BEEN INCREASED BY 60 PERCENT. ADDING THOUSANDS OF NEW PROSECUTORS AND AGENTS AROUND THE COUNTRY.

A DOUBLING OF FEDERAL PRISON CAPACITY HAS BEEN FUNDED.

IN THE WAR ON DRUGS, WE'VE GONE FROM \$4.5 BILLION IN THE BEGINNING OF THE ADMINISTRATION TO \$12.7 BILLION THIS YEAR.

BUT, IT IS AT THE STATE LEVEL WHERE THE MAIN BATTLE IS BEING FOUGHT. IF WE ARE GOING TO MAKE ANY HEADWAY AGAINST VIOLENT

CRIME, THIS SAME KIND OF COMMITMENT TO RESOURCES IS GOING TO HAVE TO BE MIRRORED AT THE STATE LEVEL.

NOW IS NOT THE TIME TO SCRIMP ON RESOURCES FOR LAW ENFORCEMENT. AND NOW IS NOT THE TIME FOR CUTBACKS.

WE HAVE TO GET BACK TO BASICS AND REMEMBER THAT THE FIRST DUTY OF GOVERNMENT IS TO PROTECT THE SAFETY OF ITS CITIZENS. THE STATE OF CALIFORNIA HAS BEEN GOOD IN MAKING LAW ENFORCEMENT A PRIORITY. CITIES ARE GOING TO HAVE TO DO LIKEWISE.

IN ADDITION TO RESOURCES, WE'RE STILL IN DIRE NEED OF LEGAL REFORM IN THIS COUNTRY.

WE TOUGHENED UP THE FEDERAL CRIMINAL JUSTICE SYSTEM CONSIDERABLY DURING THE 80'S. WE GOT STRONG PRE-TRIAL DETENTION; WE ABOLISHED PAROLE; WE GOT STIFF MANDATORY SENTENCES.

RIGHT NOW, THE FEDERAL SYSTEM IS PROBABLY THE TOUGHEST IN THE NATION. BUT MORE HAS TO BE DONE.

THE PRESIDENT HAS PROPOSED A CRIME BILL TO CARRY OUT THIS UNFINISHED AGENDA AT THE FEDERAL LEVEL.

HE'S SEEKING THE FEDERAL DEATH PENALTY; STRICTER PENALTIES FOR FELONS WHO USE FIREARMS; AND A BROADENING OF THE GOOD FAITH

EXCEPTION TO THE EXCLUSIONARY RULE, SO THAT CRIMINALS DO NOT GO FREE DUE TO INADVERTENT ERRORS BY THE POLICE.

AND, MOST IMPORTANT OF ALL, HE'S SEEKING AN END TO HABEAS CORPUS ABUSE.

AS WE RECENTLY SAW IN THE CASE OF ROBERT ALTON HARRIS THIS ABUSE OF HABEAS CORPUS IS UNDERMINING THE INTEGRITY OF THE STATE CRIMINAL JUSTICE SYSTEMS.

BUT REFORM ON THE FEDERAL LEVEL CAN ONLY HAVE A LIMITED IMPACT ON VIOLENT STREET CRIME. WE STILL NEED LEGAL REFORM ON THE STATE LEVEL.

IF THE 80'S WERE THE TIME WHERE WE REFORMED THE FEDERAL SYSTEM, THE 90'S HAVE TO BE A TIME WHERE WE REFORM THE STATE SYSTEMS.

CALIFORNIA HAS DONE MORE THAN MOST STATES TO STRENGTHEN ITS CRIMINAL JUSTICE SYSTEM, BUT THERE IS STILL MORE THAT CAN BE DONE.

SO, I'D SAY, IN THE 1980'S WE WERE PARTIALLY SUCCESSFUL.

WHERE WE PURSUED TOUGH INCARCERATION POLICIES, WE MADE PROGRESS.

BUT WE DID ONLY ABOUT HALF THE JOB.

ACROSS THE NATION, WE STILL HAVE HUNDREDS OF THOUSANDS OF CHRONIC OFFENDERS BEING CYCLED BACK OUT ON TO THE STREETS.

UNFORTUNATELY, SOME STATES ARE RELAPSING BACK TO THE "REVOLVING DOOR" SYSTEMS OF THE 60'S AND 70'S.

-- NATIONALLY, VIOLENT OFFENDERS ARE ONLY SERVING 37% OF THE SENTENCE IMPOSED.

-- FOR MURDER, MEDIAN SENTENCE 15
MEDIAN TIME SERVED 5 1/2.

-- FOR RAPE, 8/3

-- 5 OUT OF 8 FELONS RELEASED EARLY FROM PRISON ARE ARRESTED FOR A SERIOUS CRIME WITHIN 3 YEARS OF RELEASE.

-- AT LEAST 30% OF MURDERS ARE COMMITTED BY PERSONS ON BAIL, PROBATION OR PAROLE.

BEYOND THE NEED FOR RESOURCES AND REFORM -- WE MUST FOCUS

OUR EXISTING RESOURCES WHERE THEY WILL DO THE MOST GOOD AGAINST THE HARDEST-CORE VIOLENT OFFENDERS.

WE RECOGNIZE THAT 95% OF VIOLENT CRIME FALLS WITHIN STATE AND LOCAL RESPONSIBILITY AND SHOULD REMAIN SO.

HOWEVER, THIS ADMINISTRATION BELIEVES THAT IN CERTAIN SELECTED AREAS, WE IN FEDERAL LAW ENFORCEMENT CAN USE OUR RESOURCES AND OUR TOUGH FEDERAL LAWS TO HELP THE STATES COMBAT VIOLENT CRIME.

LET ME BRIEFLY MENTION THREE OF THESE INITIATIVES.

FIRST -- "PROJECT TRIGGERLOCK", A NATIONWIDE PROGRAM WE LAUNCHED A YEAR AGO TO USE TOUGH FEDERAL FIREARMS LAWS TO GIVE HEAVY MANDATORY SENTENCES TO REPEAT VIOLENT FIREARMS OFFENDERS.

IN THE FIRST YEAR OF THIS PROGRAM, WORKING COOPERATIVELY WITH LOCAL DISTRICT ATTORNEYS, WE HAVE FEDERALLY CHARGED 6,454 SERIOUS VIOLENT OFFENDERS, AND OUR CONVICTION RATE IS RUNNING OVER 90%.

THESE OFFENDERS ARE GETTING HEAVIER SENTENCES THAN THEY WOULD GET IN STATE COURT AND ARE SERVING THEIR TIME IN FEDERAL PRISON WITHOUT PAROLE. THE AVERAGE SENTENCE WE ARE GETTING ON THREE TIME LOSERS IS 18 YEARS.

IN LOS ANGELES ALONE, OVER THE PAST YEAR, WE HAVE CHARGED 194 VIOLENT OFFENDERS UNDER TRIGGERLOCK.

A GOOD EXAMPLE OF HOW TRIGGERLOCK WORKS IS THE CASE OF CHARLES FREDERICK WALKER I MENTIONED EARLIER.

AFTER HIS LAST ARMED ROBBERY, WE CONVICTED HIM UNDER TRIGGERLOCK AND HE WILL NOW BE SERVING 72 YEARS IN FEDERAL PRISON.

BY TAKING HUNDREDS OF VIOLENT OFFENDERS LIKE THESE OFF THE STREETS WE THINK WE CAN HELP MAKE CALIFORNIA A SAFER PLACE.

ANOTHER INITIATIVE IS OUR NATIONWIDE PROGRAM TO HELP LOCAL LAW ENFORCEMENT CRACK DOWN ON VIOLENT STREET GANGS.

BY USING OUR TOUGH FEDERAL ORGANIZED-CRIME STATUTES, AS WELL AS OUR FEDERAL FIREARMS AND DRUG STATUTES, WE HAVE THE CAPACITY TO TAKE OUT ENTIRE ORGANIZATIONS IN ONE FELL SWOOP.

OUR PILOT PROGRAM WAS IN PHILADELPHIA.

THERE, OUR JOINT FEDERAL-LOCAL TASK FORCE DESTROYED 38 STREET GANGS BY SWEEPING UP AND SUCCESSFULLY CONVICTING UNDER FEDERAL RICO STATUTES 600 KEY GANG MEMBERS.

ON JANUARY 9 OF THIS YEAR, I DIRECTED THE CREATION OF THESE JOINT TASK FORCES IN EVERY MAJOR CITY ACROSS THE COUNTRY; AND I REASSIGNED 300 HUNDREDS FBI AGENTS FROM COUNTER-INTELLIGENCE WORK TO ANTI-GANG SQUADS.

51 OF THESE AGENTS WERE ADDED TO ANTI-GANG WORK IN CALIFORNIA, 22 OF THOSE HERE IN LOS ANGELES.

FURTHER, 10 ADDITIONAL DEA AGENTS -- 2 5-MAN TEAMS -- WERE REASSIGNED FROM WASHINGTON HEADQUARTERS, HERE TO LOS ANGELES TARGET AGAINST VIOLENT STREET GANGS.

IN FEBRUARY, I ADDED 32 INS CRIMINAL INVESTIGATORS TARGETED AGAINST CRIMINAL ALIENS INVOLVED IN GANGS IN CALIFORNIA, 12 OF WHOM ARE ASSIGNED TO LOS ANGELES.

IMMEDIATELY AFTER THE RIOTS HERE, WE ADDED 20 ADDITIONAL FBI AGENTS, 20 ADDITIONAL ATF AGENTS HERE IN LOS ANGELES.

TWO WEEKS AGO, GOVERNOR WILSON DISCUSSED WITH ME THE NEED FOR EVEN MORE FEDERAL RESOURCES TO COMBAT VIOLENT STREET GANGS IN CALIFORNIA.

I AM PLEASED TO ANNOUNCE TODAY THAT 50 MORE FBI AGENTS WILL BE ASSIGNED HERE IN CALIFORNIA TO ANTI-GANG VIOLENT CRIME SQUADS.

26 MORE HERE IN THE CENTRAL DISTRICT;

19 MORE IN THE NORTHERN DISTRICT, TARGETED PRINCIPALLY AT THE GANG PROBLEM IN OAKLAND; 3 MORE IN SAN DIEGO; AND 2 MORE IN SACRAMENTO.

ALL TOLD, THIS MEANS THAT SINCE JANUARY, WE WILL HAVE AUGMENTED FEDERAL ANTI-GANG RESOURCES IN CALIFORNIA BY 183 FEDERAL AGENTS, 110 HERE IN LOS ANGELES.

I AM CONFIDENT THAT THE RESULTS OF THESE ANTI-GANG EFFORTS WILL BECOME INCREASINGLY EVIDENT IN THE COMING MONTHS.

THE LAST INITIATIVE I WANT TO MENTION IS OUR CRACK DOWN ON CRIMINAL ALIENS.

THE PROBLEM OF CRIMINAL ALIENS IS A GROWING ONE. MORE THAN 10% OF CALIFORNIA'S PRISON POPULATION ARE CRIMINAL ALIENS. AND, OF COURSE, THIS IS PART OF THE BROADER PROBLEM OF ILLEGAL IMMIGRATION.

AS ATTORNEY GENERAL, I HAVE A SPECIAL COMMITMENT TO STRENGTHENING ENFORCEMENT OF OUR IMMIGRATION LAWS.

AS AMERICANS WE MUST REMEMBER THAT IMMIGRATION MADE THIS COUNTRY GREAT.

WE HAVE CONTINUED THAT GREAT TRADITION BY SETTING UP THE MOST GENEROUS, FAIR, AND NON-DISCRIMINATORY SYSTEM OF LEGAL IMMIGRATION IN THE WORLD.

WE ACCEPT MORE LEGAL IMMIGRANTS THAN THE REST OF THE WORLD COMBINED.

DESPITE THIS, EVERY YEAR MILLIONS OF ALIENS ATTEMPT TO ENTER THIS COUNTRY ILLEGALLY EITHER BECAUSE THEY DO NOT QUALIFY FOR LEGAL ADMISSION, OR BECAUSE THEY WILL NOT WAIT THEIR TURN.

WE CANNOT HAVE ADMISSION INTO THIS COUNTRY BECOME A FREE-FOR-ALL, WITH NO RULES WHATSOEVER. WE MUST HAVE A SET OF RULES AND WE MUST ENFORCE THEM.

NOW, PROGRESS IN STEMMING THE INFLUX OF ILLEGAL ALIENS WILL REQUIRE STEADY ACTION ON MANY FRONTS -- REDUCING "PUSH FACTORS" BY PROMOTING ECONOMIC DEVELOPMENT SOUTH OF THE BORDER; REDUCING "PULL FACTORS" BY REFORMING OUR WELFARE SYSTEMS TO REDUCE THE PROSPECT OF EASY WELFARE BENEFITS.

STEPPED UP INS ENFORCEMENT MUST ALSO BE PART OF THE SOLUTION, AND HERE WE ARE PURSUING A 3-PRONG STRATEGY.

FIRST, WE ARE ENHANCING INTERDICTION AT THE BORDER. IN FEBRUARY, I DIRECTED THE IMMEDIATE ADDITION OF 300 BORDER PATROL THIS YEAR, HALF HERE IN CALIFORNIA, AND INSTALLING NEW EQUIPMENT AND SENSOR DEVICES ON THE BORDER, LIGHTING, FENCING.

-- 200 MORE NEXT YEAR.

-- WE ARE SEEING DROP IN BORDER CROSSING.

SECOND, WE ARE STEPPING UP EMPLOYMENT OF EMPLOYER SANCTIONS BY ADDING 50 INVESTIGATORS, AND BY LAUNCHING A MAJOR INITIATIVE TO COMBAT DOCUMENT FRAUD.

AND THIRD, WE ARE TARGETING RESOURCES ON CRIMINAL ALIENS. HERE IN THE UNITED STATES.

WHILE MOST ILLEGAL ALIENS TEND TO OBEY OUR LAWS ONCE HERE, SOME EMBARK ON A CAREER OF CRIME, RUNNING THE GAMUT FROM CAR THEFT TO DRUG TRAFFICKING AND VIOLENT GANG ACTIVITY.

WE WILL NOT TOLERATE ALIENS WHO COME HERE TO PREY UPON THE AMERICAN PEOPLE.

IN OUR STEPPED UP EFFORTS TO DEPORT THOSE WHO CRASH OUR BORDERS, CRIMINAL ALIENS WILL BE THE FIRST TO GO. AND EVEN THOSE

WHO ENTER LEGALLY AND THEN COMMIT CRIMES WILL FORFEIT THEIR PRIVILEGE TO STAY.

AS PART OF OUR FEBRUARY INITIATIVE, WE ADDED 150 CRIMINAL INVESTIGATORS -- A 10% INCREASE IN MANPOWER -- TO TARGET CRIMINAL ALIENS.

AS PART OF THIS CONTINUING CRACKDOWN ON CRIMINAL ALIENS, WE ARE TAKING FURTHER STEPS:

TO ENSURE THAT CRIMINAL ALIENS WHO ARE IN CUSTODY ARE DEPORTED AS SOON AS THEIR SENTENCES ARE COMPLETE, WE ARE INSTITUTING A DEPORTATION HEARING PROGRAM RIGHT IN THE LOS ANGELES COUNTY JAIL. WE ARE PUTTING AN INS JUDGE AND INVESTIGATORS RIGHT INTO THE JAIL TO GET DEPORTATION ORDERS WHILE THE ALIENS ARE STILL IN CUSTODY.

WE ARE ALSO TAKING STEPS TO DEPORT THOSE CRIMINAL ALIENS CURRENTLY ROAMING OUR STREETS. THERE ARE OVER 10,000 CRIMINAL ALIENS WITH OUTSTANDING ORDERS OF DEPORTATION WHO ARE AT LARGE. TOO OFTEN, LOCAL POLICE MAY ARREST THESE INDIVIDUALS BUT THEN RELEASE THEM BECAUSE THEY HAVE NO WAY OF KNOWING THAT THEY ARE SUBJECT TO DEPORTATION.

TO HELP REMEDY THIS PROBLEM WE WILL BE PUTTING THE NAMES OF THESE 10,000 ALIENS INTO OUR NATIONAL CRIMINAL INFORMATION DATA

BASE, KNOWN AS NCIC. STATE AND LOCAL LAW ENFORCEMENT CAN ACCESS NCIC, SO THEY WILL NOW KNOW IF THE PERSON THEY HAVE ARRESTED IS AN ALIEN WITH AN OUTSTANDING DEPORTATION ORDER. IF SO, THEY CAN CONTACT INS, AND WE WILL DEPORT THEM.

IN A PILOT PROJECT, SINCE LAST DECEMBER WE HAVE BEEN PUTTING SOME OF THE NAMES INTO NCIC. OF THE FIRST 853 ENTRIES, WE HAVE ALREADY HAD 92 "HITS" -- BETTER THAN A 10% RATE. THE MARKED SUCCESS OF THIS PILOT PROJECT MAKES US OPTIMISTIC THAT THIS PROGRAM WILL LEAD TO REMOVING A LARGE NUMBER OF CRIMINAL ALIENS FROM OUR COMMUNITIES.

AS AN ADDITIONAL STEP TO HELP WITH THE DEPORTATION OF CRIMINAL ALIENS, WE WILL MAKE AVAILABLE SPACE FOR 300 ADDITIONAL CRIMINAL ALIENS AT THE TERMINAL ISLAND FACILITY AND THE LOS ANGELES DETENTION CENTER. THIS WILL HELP ENSURE THAT CRIMINAL ALIENS -- WHETHER IDENTIFIED THROUGH THE NCIC PROGRAM OR OTHERWISE -- CAN BE DEPORTED WITHOUT HAVING TO BE RELEASED TO THE STREETS WHERE THEY MAY COMMIT MORE CRIMES.

AND, FINALLY, I AM DIRECTING ALL FEDERAL PROSECUTORS, IN NEGOTIATING PLEA AGREEMENTS WITH CRIMINAL ALIENS, TO TAKE STEPS TO SECURE A STIPULATION OF DEPORTATION. THIS WOULD MEAN THAT AFTER THE ALIEN SERVES HIS SENTENCE, THEY CAN BE SUMMARILY DEPORTED WITHOUT THE NEED TO GO THROUGH COSTLY, PROTRACTED PROCEEDINGS.

WHAT ALL THIS MEANS IS THAT, IF WE FOCUS OUR EFFORTS ON INCAPACITATING CHRONIC VIOLENT OFFENDERS, AND IF WE INVEST ADEQUATE RESOURCES, ACHIEVE NEEDED LEGAL REFORMS, AND WORK COOPERATIVELY IN MOUNTING AGGRESSIVE OPERATIONS TARGETED AT THE HARDEST-CORE ELEMENT -- THEN WE WILL HAVE A REAL PROSPECT OF REDUCING VIOLENT CRIME AND PROVIDING AN ENVIRONMENT WITHIN WHICH -- AND A FOUNDATION UPON WHICH -- OUR EFFORTS TO REBUILD OUR COMMUNITIES CAN BE SUCCESSFUL.

III.

AND THAT BRINGS ME TO MY THIRD AND FINAL POINT.

AS I SAID AT THE OUTSET, TO ACHIEVE ANY REAL PROGRESS IN STOPPING CRIME AND REBUILDING OUR COMMUNITIES, STRONG LAW ENFORCEMENT MUST BE COMBINED WITH ECONOMIC, SOCIAL, AND MORAL REHABILITATION OF OUR INNER CITY NEIGHBORHOODS.

BUT HOW DO WE GO ABOUT THE TASK OF REVITALIZING OUR COMMUNITIES? WHAT TYPES OF SOCIAL PROGRAMS SHOULD WE BE PURSUING?

SOME SUGGEST THAT WE NEED ANOTHER ROUNDS OF MASSIVE SPENDING ON SOCIAL WELFARE PROGRAMS.

I BELIEVE THAT VIEW IS MISTAKEN.

OVER THE LAST TWENTY-FIVE YEARS WE HAVE POURED TRILLIONS OF DOLLARS INTO SOCIAL WELFARE PROGRAMS.

WHAT HAVE WE GOTTEN FOR ALL OF THIS INVESTMENT?

I THINK THAT ANY FAIR-MINDED OBSERVER WOULD HAVE TO SAY THAT THE OVERALL RESULTS OF THIS TWENTY-FIVE YEAR "WAR ON POVERTY" HAVE BEEN DISAPPOINTING.

IN MY VIEW, THE SOLUTION IS NOT IN THE SCALE OF THE PROGRAMS BUT IN THEIR STRUCTURE. WE MUST BE SMARTER ABOUT HOW WE SPEND ON SOCIAL PROGRAMS.

IN THIS REGARD, FROM THE BEGINNING OF HIS ADMINISTRATION THE PRESIDENT HAS BEEN PUSHING A REFORM AGENDA THAT SEEKS TO AVOID THE MISTAKES OF THE PAST, AND TO PROMOTE REAL OPPORTUNITY.

THIS ADMINISTRATION HAS ONLY NEW APPROACHES THAT HAVE BEEN PROPOSED -- IDEAS THAT WILL PROVIDE OPPORTUNITY FOR PEOPLE, NOT DEPENDENCY. THAT IS WHY WE ARE PROPOSING ENTERPRISE ZONES TO BRING JOBS AND INVESTMENT INTO THE CITIES. AND THAT'S WHY WE'RE PROPOSING H.O.P.E. -- TO GIVE PUBLIC HOUSING RESIDENTS THE OPPORTUNITY TO PURCHASE THEIR HOMES.

WE HAVE BEEN URGING WELFARE REFORM. THE CURRENT SYSTEM REWARDS NON-MARRIAGE AND ILLEGITIMACY. WE HAVE TO TURN AROUND THESE INCENTIVES AND PROMOTE STABLE FAMILY LIFE.

AND, WE MUST COORDINATE OUR SOCIAL PROGRAMS WITH A FOUNDATION OF STRONG, TOUGH LAW ENFORCEMENT SO THAT LAW ABIDING CITIZENS IN OUR INNER CITIES CAN RECLAIM THEIR COMMUNITIES FROM VIOLENT PREDATORS AND PULL THEMSELVES UP OUT OF POVERTY.

AND TO ACCOMPLISH THIS, THE PRESIDENT HAS LAUNCHED THE "WEED AND SEED" PROGRAM. THE PROGRAM IS CURRENTLY UNDERWAY IN 20 CITIES ACROSS THE COUNTRY -- INCLUDING LOS ANGELES, SAN DIEGO, AND SANTA ANA IN CALIFORNIA.

IN SUM, MY MESSAGE TODAY IS REALLY THREEFOLD:

FIRST, SOCIAL PROGRAMS CANNOT BE PURSUED AT THE EXPENSE OF, OR IN LIEU OF, TOUGH LAW ENFORCEMENT POLICIES. ON THE CONTRARY, LAW ENFORCEMENT IS THE FOUNDATION UPON WHICH ALL ELSE MUST BE BUILT, AND IS AN ABSOLUTE PREREQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

SECOND, THE ONLY WAY TO REDUCE VIOLENT CRIME IS TO TARGET AND INCAPACITATE CHRONIC VIOLENT OFFENDERS THROUGH A TOUGH POLICY OF INCARCERATION. WHILE, THIS ADMINISTRATION HAS ACTED VIGOROUSLY TO HELP THE STATES DEAL WITH VIOLENT OFFENDERS,

ULTIMATELY THE ANSWER IS FOR THE STATE TO TOUGHEN UP THEIR OWN CRIMINAL JUSTICE SYSTEM.

THIRD, POURING MORE MONEY INTO SOCIAL WELFARE PROGRAMS IS NOT NECESSARILY THE ANSWER. INSTEAD, WE HAVE TO BE SMARTER ABOUT THE WAY WE PURSUE SOCIAL PROGRAMS. WE NEED PROGRAMS THAT FOSTER OPPORTUNITY, NOT DEPENDENCY.

THESE ARE DIFFICULT PROBLEMS THAT GREW UP OVER DECADES.

WE ARE NOT GOING TO SOLVE THEM OVERNIGHT.

BUT I THINK IF WE FOLLOW THIS AGENDA, WE CAN HAVE A REAL IMPACT AND MAKE OUR COUNTRY A SAFER AND JUSTER PLACE.

THANK YOU.

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U.S. DEPARTMENT OF JUSTICE

REMARKS OF
THE HONORABLE WILLIAM P. BARR,
ATTORNEY GENERAL OF THE UNITED STATES,
BEFORE THE
NATIONAL SHERIFFS ASSOCIATION

Sunday, June 21, 1992

San Diego, California

[THIS TRANSCRIPT WAS PREPARED FROM A TAPE RECORDING.]

P R O C E E D I N G S

ATTORNEY GENERAL BARR: Thank you very much. Thank you. Thank you very much, Frank.

It is a very great honor for me to be able to join the with you, National Sheriffs Association, on such a historic occasion. I wanted to come here, because we at the Department of Justice enjoy a particularly close relationship with this association. We collaborate together on a broad range of matters to strengthen and improve the criminal justice system in this country, and we at the department value no relationship more than this one.

Let me say that we have the highest regard for your Executive Director Bud Meeks, who works with us on a regular basis, and we also appreciate the leadership of Sheriff Policaro, who stepped in and has done an outstanding job.

As Attorney General, I am committed to building upon and strengthening the relationship that we have, this excellent working partnership in the months and years ahead.

Now, it is certainly a remarkable fact that you can trace your roots back one-thousand years, and I am sure that, over the course of this last millennium, there has been many times when sheriffs faced overwhelming difficulties and

extremely trying circumstances. But I wonder whether America's sheriffs have ever faced the greater challenges than you do today.

As law enforcement officers, you operate in an environment that is more dangerous, more violent and more resistant to lawful authority than ever before. And tonight's honorees and the death of your colleague in Georgia yesterday remind us of the selfless dedication and the sacrifice of those who uphold the law. Society can never really repay the debt that they owe.

Now, tonight I would like to discuss with you three critical tasks that I think we in law enforcement are going to have to handle in the 1990's, if we are going to be able to do our job effectively.

First, I think we are going to have to work very hard to ensure that we have the resources, adequate resources to do the job. And second, I think it is going to be important that we press hard for urgently needed legal reforms to strengthen the criminal justice system. And third, we are going to have to build upon and strengthen the close cooperation that must exist among all levels of law enforcement, if any of us are going to be successful.

So let me turn first to the matter of resources. Now, it is no secret that we live in an era of scarce public resources. There is an intense pressure on government at all levels to control and to cut spending, and it is well that there should be. Many cities and counties and states have flat run out of money, and there is an intense and growing competition among various governmental functions for the limited public resources that there are.

Now, various interest groups are quite vocal, when they are pressing for their share of the pie. And although crime is increasing, many law enforcement agencies around the country are actually facing budget cuts. These constraints are operating at the Federal level, as well, as you know.

Last year, although the President sought a 15 percent increase for law enforcement at the Federal Government, Congress enacted less than half that increase. And this year, while the President is seeking a 10 percent increase in law enforcement, there is talk in Congress about no increase at all.

Now, in this environment, it is incumbent on all of us in law enforcement to remind our fellow citizens and our policy-making officials and leaders of the critical importance

of investing adequate resources in law enforcement. Now is emphatically not the time for cutbacks in law enforcement.

On the contrary, if anything, more investment is necessary. The increasing levels of crime, particularly violent crime, the scale of the drug problem, the widening activity of organized criminal groups and the resources that they command, the demand for community oriented policing, all this requires not fewer, but more resources, more police, more prosecutors, more prison and jail space.

For example, if we look at the number of sworn officers in this country in relation to the incidence of violent crime, then today we have effectively one-quarter of the police force that we had 30 years ago. I think it is the time we went back to basics, when it comes to public spending.

We must remind people that the public safety, providing for the physical security of our citizenry is the very first duty of government. It is the whole reason we set up governments in the first place. And as the President says, law enforcement is not just another line item in the state or the county's budget, it is the highest obligation of government and should receive the highest priority in funding.

Now, there are some that say that, rather than

spending resources on law enforcement to deal with crime, we should, instead, spend resources on social programs to get at the root causes of crime. So we hear it said "don't spend more money on police or prisons, spend the money on schools and on housing." Now, I believe these people miss the mark.

Obviously, it is true that law enforcement alone can't solve the problem of crime. We do need social programs to restore and to rebuild our communities. But these social programs, whether it be education or housing or job training or whatever, must complement, not supplant an effective law enforcement program.

Law enforcement and efforts at social rehabilitation must go hand in hand. Social programs cannot be pursued at the expense of or as a substitute for a strong law enforcement program in the community. On the contrary, I think it is becoming increasingly clear that tough law enforcement is an absolute prerequisite for social programs to be successful.

The problem today is that many efforts at rebuilding our communities are being strangled by crime itself. We build public housing, only to see it taken over by drug traffickers. Where there is a pervasive atmosphere of crime and violence, even the best designed social programs cannot

take root. On the contrary, they will be overwhelmed, without firm measures to suppress the incidence of crime.

So I think society must come to recognize that law enforcement is the foundation upon which all else must be built. And those who want to pursue various other social programs to build a better society should be the first to say let's make sure that, first of all, we are investing adequate resources in law enforcement, because, without that investment, all these other efforts and all these other dreams for the future will come to naught.

Now, there are also who say that they don't want to invest more in law enforcement, because, in these tight fiscal times, we just cannot afford it. I think these people are seriously misguided. I say that we cannot afford not to invest more in law enforcement. There is a tendency today to focus on the costs of providing an effective law enforcement system and the costs of police, the costs of equipment, the costs of more prison space. But I think it is time we focused on the costs of failing to provide these resources.

Simply put, the more you look at it, the more you will see that police, prosecutors and prisons are a sound investment. Although the law enforcement is not cheap, the

cost to society of not providing effective law enforcement is far greater.

Just look at the costs of violent crime alone, to say nothing of fraud and all the other kinds of nonviolent crime, a study published in 1988, by Mark Cohen, formerly on the staff of the U.S. Sentencing Commission, estimated that annual aggregate costs of victims of crime was \$92.6 billion a year in 1985 dollars. Today, just today, the costs of treating gunshot wounds in emergency rooms in hospitals costs our society \$5 billion a year.

And there are other costs of violent crime that sometimes we don't think about. If we don't pay what is necessary to catch and put bars around the predators, then the victims pay to put bars around themselves. I visited many inner-city neighborhoods recently, and I have seen row upon row of houses surrounded by bars, bars on the windows and bars on the doors. The amount of money that we, as a society, spend on these and other private security measures, essentially making ourselves the prisoners, is staggering.

Then, of course, there are other costs that are larger and incalculable, such as lost sales when people are afraid to go out and do their shopping, and lost jobs when

businesses move out of high-crime areas, and lost opportunities when schools become the playgrounds of gangs and drug dealers, rather than places where kids can learn their way out of poverty, and lost tax revenues when business sales and businesses and jobs evaporate.

So when we stop to think about it, it becomes clear that investing in strong law enforcement is economically the right thing to do. Yet, despite the enormous needs that exist today, spending on law enforcement remains a small percentage of the public budget.

Now, in innumerable other areas of society, we have recognized the need to invest substantial resources in order to avoid the risk of harm. For example, we invest tens of billions of dollars to reduce the loss of life in car crashes, including investment in highway barriers and safety devices, and we spend tens of billions of dollars a year to regulate air quality and billions to regulate hazardous waste disposal, in order to avoid the harm caused by exposure to pollutants and toxins.

The public appears to accept the need for these substantial expenditures, even though some of them guard against relatively remote threats. We are willing, as a

society, to spend millions of dollars to save one life, to avoid one premature death.

For example, each year, statewide periodic motor vehicle inspection programs cost \$12.6 million for each life saved by the program. Now, various academic studies of people's willingness to pay to avoid risks of death or serious harm indicate that the public spending of up to \$2.6 million to avert one death would be justified.

Now, if we applied this same logic and the same cost-benefit analysis that is used in other public health and safety programs to law enforcement, we would be investing much greater amounts in law enforcement. Now, I am not suggesting today that we double or triple our law enforcement budget, although using that calculus, that might be justified. But I am saying that the notion that we cannot afford to spend more for law enforcement is simply wrong.

The second major task in the 1990's, I think, is to press for urgently needed reforms of our legal system, our criminal justice system at both the state and the Federal level. During the 1960's and the 1970's, our criminal justice system got seriously off track, as you all know. It got skewed much too much in favor of the criminal, at the

expense of society's rights, and in the 1980's we started the difficult task of restoring the criminal justice system, rebalancing it, to give greater weight to the rights of society and to victims, and we have made progress.

At the Federal level, Presidents Reagan and Bush have made it a priority to select judges who would be more supportive of the legitimate needs of law enforcement, and today, 5 out of the 9 Supreme Court Justices and 60 percent of Federal judges have been appointed by either President Reagan or President Bush. And slowly, we have seen, as a consequence of this, some of the judicial excesses of the 1960's and 1970's contained and a more balanced jurisprudence has begun to emerge.

Just as importantly, during the 1980's, we have made significant advances in reforming the criminal justice system through legislative action. At the Federal level, we obtained effective preventive detention and sentencing reform, law enforcement has been given important new tools like asset forfeiture and mandatory minimum sentences, and many states were able to accomplish significant reforms during the 1980's, as well.

But while we made significant progress in

strengthening the criminal justice system, clearly must more remains to be done. We have to push forward and finish the job, and the 1990's are the time that we should finish the job.

At the Federal level, the President's crime bill will carry out this unfinished agenda. He is seeking, as you know, the death penalty and stricter penalties for felons who use firearms, he is seeking a broadening of the good-faith exception to the exclusionary rule, and he is seeking an end to the abuse of the writ of habeas corpus. That is why the President's crime bill is so important, and the administration appreciates the strong support that it has received from this association for that crime bill.

But reform on the Federal level can only have a limited impact on violent crime. We still need legal reform at the state level. While some states did much to bring their systems up to date in the 1980's, many states unfortunately have lagged behind. Many states lack effective pretrial detention laws, for example, or sentencing schemes or functional juvenile justice systems.

I am soon going to be releasing a comprehensive violent crime report that contains 24 specific recommendations

on strengthening state criminal justice systems. It contains, among other things, specific recommendations on truth in sentencing, updated evidentiary rules to enhance the truth-finding functions of the trial, improvements in the juvenile justice system and provisions which protect the role of the victim throughout the criminal justice process. And I hope the National Sheriffs Association finds this report useful in your continuing efforts to strengthen and improve the criminal justice system. And on the reform front, we also have to stay the course on judicial selections.

The third challenge we face in the 1990's, in addition to resources and reform, is the need to strengthen cooperation at all levels of law enforcement. In my first meeting, as Attorney General, with the United States Attorneys, I told them that I wanted the watchword of my tenure to be "teamwork," particularly teamwork among Federal, state and local law enforcement.

We need to level ourselves by working together. Sometimes this means closer cooperation, sometimes this means engaging in joint operations and task forces. This administration believes in forging a strong working partnership among all law enforcement entities and, since

becoming Attorney General, I have put emphasis on expanding areas of cooperation and joint enforcement activity, seeking new resources for drug task forces, violent crime task forces, and fugitive task forces that would assist in supporting local law enforcement.

We have initiated a number of programs where, by working jointly with state and local law enforcement, we think we can be mutually beneficial. Let me just give you a few examples.

You are all familiar, I think, with Operation Trigger Lock, which is a cooperative effort where we use our Federal firearms statutes to give stiff mandatory sentences to chronic offenders. In the first year of the Trigger Lock program, which we started last April, we have already charged over 6,400 chronic violent offenders. This is double our prior rate of prosecution at the Federal level for firearms offenses, and we are now convicting over 90 percent of these individuals and averaging 7-year mandatory sentences, and for 3-time losers, we are averaging 18-year sentences. That is mandatory sentences with no parole.

Now, some people are talking about 5-day waiting periods for handguns and 7-day waiting periods for handguns--

18 years is the kind of waiting period that I like.

[Applause.]

Another area where we are working jointly with state and local law enforcement is an area of gangs. Our Federal RICO also give us a powerful tool against those violent organizations. Our pilot program was in Philadelphia, and there our joint Federal, state and local task force destroyed 38 street gangs, by successfully sweeping up and convicting under Federal RICO statutes 600 key gang members. This project is a model of Federal, state and local cooperation. In January, we took this program nationwide, seeking to establish such task forces in cities across the country, those cities that have significant gang problems.

Another area where we have initiated new policies to support our colleagues in state and local law enforcement is in the area of prison and jail litigation. In January, I stated our position that the business of running correctional facilities belongs to state officials, not to judges and special masters.

[Applause.]

I announced that the Department of Justice would support those states that are operating their prisons in good

faith and their jails in good-faith compliance with the Constitution and that seek relief from judicially imposed prison caps and other undue constraints. And in line with this policy, we have recently taken action in several states, Michigan, Texas and in Pennsylvania, to help those states and the City of Philadelphia terminate prison caps and court micro management of their facilities.

Now, another way we can assist our state and local colleagues is with our justice assistance grants and other funds distributed by the department's Office of Justice Programs, and also the technical assistance that we provide through such entities as the NIC. And some of you who attended our correctional summit know that we have substantially increased the resources to NIC to help sheriffs and other correctional officials manage the serious problems that we confront in the corrections area.

Now, another funding area is the department's support for the National Sheriffs Association's innovative program for preventing crime against the elderly, and that program is known as TRIAD, and it was my privilege to announce last January a grant to this association for TRIAD. As you know, this money will be used jointly by you and IACP

and the American Association of Retired Persons to produce a TRIAD manual and source book.

And in line with this initiative, and I know in cooperation with this association, I am pleased to say that the department, through its Office of Victims of Crime, is going to hold a national conference this fall on precisely this topic, the victimization of the elderly, and I look forward to working closely with this association in planning and conducting this conference.

Finally, a tangible benefit of our cooperation is the asset forfeiture program. Like any new program, we started small in 1986. \$22.2 million in federally forfeited cash and tangible property was transferred to state and local law enforcement agencies in 1986. But the equitable sharing program has grown each year, and in FY 1991, we shared almost \$290 million with state and local law enforcement.

I believe this sharing has helped to bring about a sea change in Federal, state and local law enforcement cooperation. And it is my pleasure to announce to you today that asset forfeiture and equitable sharing have reached a dramatic milestone. This month, June of 1992, marks the month in which equitable sharing topped the \$1 billion mark.

Now, we are going to continue this program of equitable sharing and asset forfeiture and preserve this important source of support for the law enforcement community.

Now, as I suggested, the challenges we face are formidable ones. But I believe that we if we invest adequate resources, achieve needed legal reforms and work cooperatively, then we will have a real prospect of reducing crime and protecting the public.

The leadership of the National Sheriffs Association will be critical, as it always has been, to achieving these objectives, and I look forward to working with you, as we pursue our shared goals of a safer and most just society. I pledge my continuing cooperation and support for your program, and i wish you a successful meeting here.

God bless all of you.

[Applause.]

[At this point, the remarks of Attorney General Barr were concluded.]

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Department of Justice

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES

AGUDATH ISRAEL OF AMERICA
1992 HUMANITARIAN AWARD DINNER

MAY 31, 1992
NEW YORK, NEW YORK

AGUDATH ISRAEL OF AMERICA

THANK YOU, RABBI SHERER, FOR YOUR KIND REMARKS. IT IS A GREAT PRIVILEGE FOR ME TO BE HERE TONIGHT WITH AGUDATH ISRAEL ON ITS 70TH ANNIVERSARY AND SO MANY OUTSTANDING LEADERS IN THE JEWISH COMMUNITY, INCLUDING THE MEMBERS OF THE COUNCIL OF TORAH SAGES; DISTINGUISHED GUESTS AND HONOREES.

IT IS A HIGH HONOR FOR ME TO RECEIVE THIS YEAR'S HUMANITARIAN AWARD. THE VALUE OF AN AWARD IS INEXTRICABLY LINKED TO THE CHARACTER OF THE ORGANIZATION PRESENTING IT. AND THAT IS WHY, MORE THAN ANY OTHER, I TRULY APPRECIATE AND CHERISH THIS AWARD.

I WOULD LIKE TO SPEAK WITH YOU BRIEFLY TONIGHT ABOUT TWO PROBLEMS WHICH I AM VERY CONCERNED ABOUT. THE FIRST IS THE ALARMING RISE IN ANTI-SEMITIC INCIDENTS AND OTHER HATE CRIMES. SECOND, IS THE CRUMBLING OF TRADITIONAL VALUES IN OUR SOCIETY. I BELIEVE THAT THESE PROBLEMS ARE RELATED, AND THAT THE SOLUTION TO BOTH REQUIRES REINVIGORATING THE STRONG RELIGIOUS AND MORAL TRADITION OF THIS COUNTRY.

OUR FOUNDING FATHERS RECOGNIZED THAT MORALITY WAS THE FOUNDATION OF A SUCCESSFUL REPUBLIC. AS SAMUEL ADAMS SAID: "IT IS NOT POSSIBLE THAT ANY STATE SHOULD LONG REMAIN FREE, WHERE VIRTUE IS NOT SUPREMELY HONORED."

AND THE FOUNDING FATHERS ALSO RECOGNIZED THAT RELIGION IS ESSENTIAL TO SUSTAINING MORALITY. AS PRESIDENT WASHINGTON SAID IN HIS FAREWELL ADDRESS, "OF ALL THE DISPOSITIONS AND HABITS WHICH LEAD TO POLITICAL PROSPERITY, RELIGION AND MORALITY ARE INDISPENSABLE SUPPORTS."

CONSEQUENTLY, I BELIEVE THAT THE FREEST POSSIBLE EXERCISE OF RELIGION IS ESSENTIAL TO THE CONTINUED SUCCESS OF OUR GREAT NATION.

FREEDOM OF RELIGION REQUIRES NOT ONLY FREEING RELIGION FROM UNDUE GOVERNMENT REGULATION AND INTERFERENCE. IT ALSO REQUIRES FREEING RELIGION FROM DISCRIMINATION AND FROM VILE ACTS OF HATRED AND PERSECUTION.

THAT IS WHY I AM SO CONCERNED BY INSTANCES OF ANTI-RELIGIOUS ACTIVITIES AND HATE CRIME, AND PARTICULARLY, BY THE INCREASING LEVEL OF ANTI-SEMITIC INCIDENTS IN THIS COUNTRY. THE ANTI-DEFAMATION LEAGUE REPORTS THAT 1991 WAS THE FIFTH CONSECUTIVE YEAR OF INCREASED ANTI-SEMITIC ACTS NATIONWIDE.

AS ATTORNEY GENERAL, I HAVE A SPECIAL RESPONSIBILITY TO RESPOND AGGRESSIVELY TO THESE HATEFUL ACTS. I HAVE MADE VIGOROUS CIVIL RIGHTS ENFORCEMENT ONE OF MY TOP PRIORITIES AND I PLEDGE TO

YOU THE DEPARTMENT OF JUSTICE'S UNYIELDING COMMITMENT TO ELIMINATING ANTI-SEMITISM AND OTHER FORMS OF RELIGIOUS BIGOTRY.

THE AIRMONT CASE -- WHICH YOU WERE SO KIND TO RECOGNIZE TONIGHT -- IS ONE SUCH EXAMPLE. THE MANIPULATION OF ZONING LAWS TO KEEP ORTHODOX JEWS OUT OF A COMMUNITY STRIKES AT THE VERY HEART OF WHAT THIS COUNTRY STANDS FOR.

OUR CIVIL RIGHTS DIVISION, UNDER THE LEADERSHIP OF ASSISTANT ATTORNEY GENERAL JOHN DUNNE, HAS ALSO BEEN VIGILANT IN RESPONDING TO OTHER FORMS OF ANTI-SEMITISM. BY WAY OF EXAMPLE, WE RECENTLY CONVICTED EIGHT MEMBERS OF HATE GROUPS FOR DESECRATING A SYNAGOGUE IN NASHVILLE, TENNESSEE; FIVE INDIVIDUALS FOR CONSPIRACY TO INTERFERE WITH THE RIGHTS OF A HOLOCAUST SURVIVOR IN SAN DIEGO THROUGH A VICIOUS CAMPAIGN OF ANTI-SEMITIC HARASSMENT; NUMEROUS SKINHEADS AROUND THE COUNTRY FOR A VARIETY OF ANTI-SEMITIC CRIMES; AND MEMBERS OF THE ARYAN NATION WHO MURDERED ALAN BERG.

I AM VERY PROUD OF THIS RECORD. WHILE YOU HONOR ME TONIGHT, THE REAL CREDIT BELONGS TO THE DEDICATED MEN AND WOMEN IN THE CIVIL RIGHTS DIVISION AND THE REST OF THE DEPARTMENT. STILL, WE KNOW WE CANNOT LET OUR GUARD DOWN AND MORE NEEDS TO BE DONE.

WHILE I RECOGNIZE THAT RELIGIOUS PERSECUTION HAS DEEP ROOTS, I WONDER WHETHER CURRENT ANTI-RELIGIOUS ACTIVITY MAY NOT BE

FUELED BY INCREASING SECULARIZATION OF OUR SOCIETY. I WONDER WHETHER THE DENIGRATION OF RELIGION IN POPULAR CULTURE -- THE PORTRAYAL OF THOSE WITH DEVOUTLY HELD RELIGIOUS BELIEFS AS SOMEHOW "STRANGE" -- MAY NOT CONTRIBUTE TO THE ATMOSPHERE OF INTOLERANCE AND HATE.

AND THAT BRINGS ME TO THE SECOND PROBLEM I WANT TO MENTION -
- THE CRUMBLING OF TRADITIONAL VALUES IN OUR SOCIETY.

AS ATTORNEY GENERAL, I HAVE SEEN MANY OF THE COUNTRY'S PROBLEMS AT CLOSE RANGE -- DRUGS, CRIME, GANGS, BROKEN FAMILIES, DISCONNECTED YOUTH, BATTERED SPOUSES, ABUSED CHILDREN.

IT IS COMMON THESE DAYS TO LOOK TO THE GOVERNMENT TO SOLVE ALL OUR PROBLEMS.

BUT I THINK THESE PROBLEMS MAY BE LARGELY BEYOND THE REACH OF THE GOVERNMENT AND THE LAWS. I AM PERSUADED THAT MANY OF OUR PRESSING PROBLEMS RESULT FROM THE DISINTEGRATION OF MORALITY. IN SHORT, THE CRISIS WE FACE TODAY IS, AT BOTTOM, A MORAL ONE.

AS I SAID, OUR FOUNDING FATHERS UNDERSTOOD THAT, IN A FREE SOCIETY, THE FATE OF POPULAR GOVERNMENT WOULD ULTIMATELY DEPEND ON THE CHARACTER AND MORALITY OF THE PEOPLE.

OUR GREAT EXPERIMENT HAS GONE ON FOR OVER 200 YEARS. AND WHAT HAS SUSTAINED US DURING THESE TWO CENTURIES HAS BEEN OUR DEDICATION TO CORE MORAL VALUES.

THOSE VALUES -- SO FAMILIAR TO MEMBERS OF AGUDATH ISRAEL -- INCLUDE RESPECT FOR LAW; LOVE OF OUR COUNTRY; SELF-SACRIFICE, BOTH FOR THE SAKE OF OUR FAMILIES AND FOR THE COMMUNITY; HARD WORK AND INDIVIDUAL RESPONSIBILITY; AND CHARITY AND COMPASSION FOR OTHERS.

BUT AS WE LOOK AROUND TODAY, IT IS FAIR TO ASK WHETHER THE MORAL VALUES THAT HAVE SUSTAINED THIS COUNTRY ARE BREAKING DOWN.

IT IS UNDENIABLE THAT, SINCE THE MID-1960'S, THERE HAS BEEN A STEADY ASSAULT ON TRADITIONAL VALUES. WE HAVE LIVED THROUGH 25 YEARS OF PERMISSIVENESS, SEXUAL REVOLUTION, AND THE DRUG CULTURE.

PEOPLE HAVE BEEN ENCOURAGED TO CAST OFF CONVENTIONAL MORALITY AND OLD-FASHIONED RESTRAINTS. THE EMPHASIS HAS BEEN ON INDIVIDUAL FULFILLMENT AND THE UNBRIDLED PURSUIT OF PLEASURE.

MORAL TRADITION HAS GIVEN WAY TO MORAL RELATIVISM -- A DOCTRINE WHICH MAKES EACH INDIVIDUAL THE SOLE JUDGE OF HIS OWN ACTION AND WHICH IS DESIGNED TO GIVE FULL LEEWAY TO THE PURSUIT OF INDIVIDUAL APPETITES.

AFTER 25 YEARS OF THIS MORAL UPHEAVAL, WHAT CAN WE SAY ABOUT ITS RESULTS? ARE WE COLLECTIVELY BETTER OFF? IT DOES NOT APPEAR SO.

ALL AROUND US, WE SEE A GRIM HARVEST: UNPRECEDENTED VIOLENCE; SOARING JUVENILE CRIME; WIDESPREAD DRUG ADDICTION; CRACK BABIES; INCREASING RATES OF TEENAGE SUICIDE; THE WORLD'S HIGHEST DIVORCE RATE; ABORTION, AND NOW EUTHANASIA; RECORD PSYCHIATRIC DISORDERS; LONELINESS AND DESPAIR.

THIS MORAL CRISIS PRESENTS AN OVERWHELMING CHALLENGE FOR AMERICA. SOLVING IT IS PARTICULARLY DIFFICULT BECAUSE IT REQUIRES CHANGING BEHAVIOR ON AN INDIVIDUAL LEVEL -- REESTABLISHING A MORAL SENSE THAT WILL GUIDE INDIVIDUALS IN THE ACTIONS THEY TAKE AND THE CHOICES THEY MAKE.

AS I SAID AT THE OUTSET, I BELIEVE THESE TWO PROBLEMS -- THE RISE IN HATE CRIME AND THE DECLINE OF TRADITIONAL VALUES -- ARE CLOSELY RELATED.

AND, I BELIEVE THAT THE SOLUTION TO BOTH IS THE SAME. THAT THE BEST WAY TO FIGHT RELIGIOUS INTOLERANCE -- AND THE DECLINE IN MORALITY AND PUBLIC VIRTUE WHICH I BELIEVE IS RESPONSIBLE FOR MANY OF OUR NATION'S PROBLEMS -- IS TO REINVIGORATE THE STRONG RELIGIOUS AND MORAL TRADITION IN THIS COUNTRY.

AND THAT IS WHY I BELIEVE THAT AGUDATH ISRAEL OF AMERICA,
AND OTHER ORGANIZATIONS, THAT REPRESENT STRONG RELIGIOUS
COMMITMENT AND COMMITMENT TO TRADITIONAL VALUES ARE SO IMPORTANT.

ALTHOUGH YOU HAVE HONORED ME WITH AN AWARD TONIGHT, IT IS I
WHO WANT TO HONOR YOU. FOR, BY YOUR EXAMPLE OF STRONG COMMITMENT
TO RELIGIOUS BELIEF AND CORE FAMILY VALUES, IT IS YOU WHO HOLD
OUT HOPE FOR THE FUTURE OF OUR GREAT NATION.

BARR BLAMES HATE CRIMES ON CRUMBLING VALUES

Los Angeles Times

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Byline: EKC

By Associated Press

Dateline: NEW YORK

Body

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U.S. Atty. Gen. William P. **Barr** has suggested that the rise of anti-Semitism and hate crime in the United States is linked to "the crumbling of traditional values."

At a dinner June 7 of **Agudath** Israel, an Orthodox Jewish movement, he said "current anti-religious activity" may be "fueled by increasing secularization. I wonder whether the denigration of religion in popular culture -- the portrayal of those with devoutly held religious beliefs as somehow 'strange' -- may not contribute to the atmosphere of intolerance and hate."

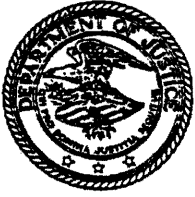
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Department of Justice

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES

THE GEORGE WASHINGTON UNIVERSITY
NATIONAL LAW CENTER COMMENCEMENT

MAY 31, 1992
WASHINGTON, D.C.

CLASS OF 1992: IT IS A PLEASURE TO BE HERE WITH YOU TODAY AS YOU GRADUATE FROM LAW SCHOOL AND MARK THIS IMPORTANT MILESTONE IN YOUR LIVES.

YOU HAVE SUCCESSFULLY COMPLETED A DEMANDING COURSE OF STUDY AND NOW STAND READY TO TAKE ON THE RESPONSIBILITIES OF THE LEGAL PROFESSION.

JUST 15 YEARS AGO I WAS IN YOUR POSITION AND I CAN STILL REMEMBER THE SENSE OF JOY AND ACCOMPLISHMENT I FELT. YOU DESERVE THOSE FEELINGS TODAY.

CONGRATULATIONS TO ALL OF YOU ON A JOB WELL DONE.

YOU ARE, OF COURSE, THE PRINCIPALS IN THIS EXERCISE. BUT I WOULD ALSO LIKE TO PAY TRIBUTE TO OTHERS HERE WHO DESERVE SPECIAL RECOGNITION TODAY -- YOUR SPOUSES, FAMILY AND FRIENDS -- WHO HAVE SUPPORTED YOUR EFFORTS AND CONTRIBUTED SO MUCH TOWARD YOUR ATTAINING THIS LAW DEGREE.

LET ME RECOGNIZE ALSO THE SUPERB ADMINISTRATION AND FACULTY AT THIS UNIVERSITY AND AT THE NATIONAL LAW CENTER -- MEN AND WOMEN WHO HAVE MADE THIS SUCH A GREAT INSTITUTION OF LEARNING.

I FEEL VERY GRATEFUL TO GEORGE WASHINGTON UNIVERSITY.

WHEN I LEFT THE LAW SCHOOL HERE AND STARTED MY JUDICIAL CLERKSHIP AND THEN WENT ON INTO PRIVATE PRACTICE, I QUICKLY SAW THAT I HAD RECEIVED HERE A LEGAL EDUCATION THAT WAS SECOND TO NONE.

I CAN ASSURE YOU THAT, AT GEORGE WASHINGTON, YOU HAVE RECEIVED THE BEST POSSIBLE PREPARATION FOR MOVING INTO AND SUCCEEDING IN THE LEGAL PROFESSION. AND NOW, THE REST IS UP TO YOU.

SOME OF YOU WILL GO INITIALLY INTO PUBLIC SERVICE. OTHERS WILL GO INTO PRIVATE PRACTICE. SOME WILL HEAD FOR BUSINESS. AND MOST OF YOU WILL CHANGE COURSE, AT LEAST ONCE, AND PROBABLY SEVERAL TIMES, DURING YOUR CAREERS.

WHEREVER YOU ARE HEADED, YOU CAN BE SURE THAT MANY CHALLENGES AND FURTHER ACCOMPLISHMENTS LIE AHEAD.

LAWYERS HAVE ALWAYS PLAYED A SPECIAL ROLE IN THE LIFE OF THIS NATION, AND YOU WILL BE NO EXCEPTION.

INCREASINGLY, YOU WILL TAKE ON ROLES OF LEADERSHIP AND INFLUENCE BOTH AS PROFESSIONALS AND AS PRIVATE CITIZENS.

I.

TODAY, I WOULD LIKE TO SHARE SOME BRIEF THOUGHTS WITH YOU ABOUT THE ROLE OF LAW AND LAWYERS IN OUR SOCIETY AND THE CHALLENGE THAT WE FACE AS A PROFESSION.

WE FREQUENTLY HEAR PEOPLE BEMOAN THE FACT THAT SO MANY OF THE "BEST AND BRIGHTEST" GO TO LAW SCHOOL AND PURSUE LEGAL CAREERS.

THE SUGGESTION IS THAT THIS IS A DIVERSION OF TALENT AND ENERGY AWAY FROM MORE PRODUCTIVE PURSUITS.

I THINK THIS VIEW IS QUITE WRONG.

THE LAW IS A HIGH CALLING. FEW HUMAN ENTERPRISES ARE MORE IMPORTANT THAN PROVIDING FOR THE RULE OF LAW.

THIS GREAT REPUBLIC WAS CREATED BY LAWYERS, AND THE LAW PLAYS A CENTRAL ROLE IN THE LIFE OF OUR SOCIETY.

WE ENJOY OUR FREEDOMS ONLY THROUGH THE RULE OF LAW.

IT IS OFTEN -- AND RIGHTLY -- SAID THAT WE ARE A NATION OF LAWS. AND, AS LAWYERS, WE PLAY AN IMPORTANT ROLE IN SOCIETY BECAUSE IT FALLS UPON US TO MAKE THE SYSTEM OF LAWS WORK.

IN THE UNITED STATES, MORE THAN IN ANY OTHER COUNTRY, IT IS THE RULE OF LAW THAT HOLDS OUR SOCIETY TOGETHER.

OURS IS THE MOST DIVERSE NATION IN THE WORLD. NO OTHER COUNTRY IN THE WORLD HAS OUR DIVERSITY OF NATIONALITIES, RACIAL AND ETHNIC BACKGROUNDS, RELIGIONS, AND EVEN LANGUAGES.

AND YET WE HAVE BEEN UNIQUELY SUCCESSFUL IN INCORPORATING ALL OF THESE DIVERSE PEOPLE INTO A STRONG AND VIBRANT SOCIETY.

JUST HOW GREAT AN ACHIEVEMENT THIS IS IS APPARENT WHEN WE LOOK AT SOME OF THE TRAGIC EVENTS UNFOLDING AROUND THE WORLD TODAY.

AS THE YOKE OF TOTALITARIAN GOVERNMENT HAS BEEN THROWN OFF, LONG SUPPRESSED ETHNIC AND RELIGIOUS RIVALRIES HAVE ERUPTED IN A NUMBER OF COUNTRIES.

INTERNECINE WARFARE HAS BROKEN OUT, AND WE HAVE WITNESSED THE TRAGIC SPECTACLE OF NEIGHBOR FIGHTING NEIGHBOR.

I BELIEVE THAT ONE OF THE CRUCIAL REASONS THE UNITED STATES HAS LARGELY AVOIDED SUCH PROBLEMS THROUGHOUT ITS HISTORY HAS BEEN THE GENERAL ACCEPTANCE OF THE RULE OF LAW -- THE NOTION THAT THE LAW IS ABOVE ALL PEOPLE AND THAT OUR DISAGREEMENTS ARE TO BE

SETTLED ACCORDING TO THE LAW -- THE NOTION THAT, RATHER THAN TAKING THE LAW INTO THEIR OWN HANDS, DISPUTES -- WHETHER CIVIL OR CRIMINAL IN NATURE -- ARE TO BE REFERRED TO THE LEGAL SYSTEM.

AND, HISTORICALLY, LAWYERS HAVE PLAYED A FUNDAMENTALLY IMPORTANT PART BOTH IN CONVEYING THAT MESSAGE AND IN MAKING THE LEGAL SYSTEM WORK SO THAT PEOPLE ACCEPT IT AS THE ARBITER OF THEIR DISPUTES.

THIS IS, HOWEVER, A PROCESS THAT MUST BE CONTINUALLY CARRIED OUT. THERE IS NOTHING AUTOMATIC ABOUT THIS ACCEPTANCE OF THE RULE OF LAW. RATHER, IT MUST BE RENEWED IN EACH GENERATION.

II.

THAT IS WHY IT IS UNFORTUNATE THAT WE SEE IN AMERICA TODAY INCREASING DISENCHANTMENT WITH THE LEGAL SYSTEM AND WITH LAWYERS.

THIS DISSATISFACTION GOES BEYOND LAWYERS JOKES AND PUBLIC OPINION SURVEYS.

THERE REALLY IS -- MORE THAN EVER BEFORE -- A WIDESPREAD CYNICISM ABOUT OUR PROFESSION.

WE LAWYERS -- I THINK -- TEND TO BE OVERLY DEFENSIVE ABOUT

CRITICISM. ALL TOO OFTEN WE REFLEXIVELY DISMISS SUCH CRITICISM AS "LAWYER BASHING".

BUT I THINK WE SHOULD LISTEN CAREFULLY TO CRITICISM AND ATTEMPT TO LEARN FROM IT.

TRUE, MUCH OF IT IS UNDESERVED. BUT SOME OF IT MAY NOT BE WHOLLY WITHOUT MERIT. WE SHOULD PAY IT SOME HEED.

THE MORE I HAVE THOUGHT ABOUT IT, THE MORE I THINK THAT THE WIDESPREAD CYNICISM ABOUT LAWYERS RESULTS FROM A GROWING PUBLIC PERCEPTION THAT THE SYSTEMS WHICH WE RUN -- BOTH THE CIVIL AND CRIMINAL JUSTICE SYSTEMS -- ARE NOT, IN THE END, PRODUCING THE RESULTS THEY SHOULD BE -- THEY ARE NOT METING OUT JUSTICE.

THERE IS THE SENSE (OUT THERE) THAT WE LAWYERS HAVE SET UP AN ARCAINE SYSTEM OF ELABORATE PROCESSES AND PROCEDURES WHICH WE THEN MANIPULATE AT GREAT PROFIT TO OURSELVES. BUT, AFTER MUCH COMMOTION AND EXPENSE, THE PROCESS DOES NOT DELIVER THE PRODUCT IT IS SUPPOSED TO -- NAMELY, A JUST RESULT.

BECAUSE WE LAWYERS ARE SO SCHOOLED IN PROCEDURES, PERHAPS WE TEND TO FORGET THAT JUSTICE INHERES LESS IN THE PROCESS WE GO THROUGH TO REACH A RESULT THAN IN THE QUALITY OF THE RESULT WE ACTUALLY ACHIEVE.

IN OTHER WORDS, DOING JUSTICE IS ULTIMATELY A MATTER OF ACHIEVING JUST RESULTS.

THAT IS THE WHOLE PURPOSE OF A LEGAL SYSTEM.

JUSTICE IS DONE WHEN THE CRIMINAL WRONGDOER RECEIVES APPROPRIATE PUNISHMENT.

JUSTICE IS DONE WHEN ONE WHO HAS CIVILLY HARMED ANOTHER IS COMPELLED TO MAKE THE INJURED PERSON WHOLE.

THIS DOES NOT MEAN THAT PROCESS AND PROCEDURES ARE UNIMPORTANT. THEY ARE VERY IMPORTANT. BUT WE SHOULD NOT LOSE SIGHT OF THE FACT THAT LEGAL PROCESS IS A MEANS TO AN END, NOT AN END IN ITSELF. WE HAVE ADOPTED LEGAL PROCESSES AND PROCEDURES PRECISELY TO FACILITATE THE FAIR, ACCURATE, REASONABLY PROMPT, AND ULTIMATELY JUST RESOLUTION OF CASES.

PEOPLE WILL NOT LONG REMAIN LOYAL TO A LEGAL PROCESS SIMPLY BECAUSE IT IS TIDY -- THEY MUST SEE -- MORE OFTEN THAN NOT -- JUSTICE BEING DONE IN THE END.

AS APPLIED THROUGH MOST OF OUR HISTORY, OUR LEGAL PROCEDURES -- WITH ALL THEIR FAMILIAR GUARANTEES -- HAVE BEEN EFFECTIVE NOT ONLY IN FAIRLY PROTECTING THE RIGHTS OF CIVIL LITIGANTS AND

CRIMINAL DEFENDANTS, BUT ALSO IN SERVING THEIR ULTIMATE PURPOSE OF FINDING THE TRUTH AND REACHING THE JUST RESULT.

TODAY, HOWEVER, I THINK THE PUBLIC'S CONFIDENCE IN THE LEGAL SYSTEM IS BEING UNDERMINED.

THERE IS A FEELING, I THINK, THAT WE LAWYERS HAVE BECOME SO OBSESSED WITH PROCESS THAT WE ARE SACRIFICING THE ABILITY OF THE SYSTEM TO PRODUCE JUST RESULTS.

MANY PEOPLE NOW SEE LAWYERS AS SHARP MANIPULATORS OF A PROCESS, RATHER THAN STEWARDS OF A SYSTEM THAT IS DIRECTED AT ACHIEVING THE RIGHTEOUS RESOLUTION OF DISPUTES.

THIS EROSION OF CONFIDENCE CLEARLY PERTAINS TO THE CRIMINAL JUSTICE SYSTEM.

MANY PEOPLE ARE CONCERNED THAT PROCEDURAL TECHNICALITIES ARE BEING ABUSED AND EXPLOITED TO THE POINT THAT, ALL TOO FREQUENTLY, THE GUILTY GO UNPUNISHED.

THE PROCESS SOMETIMES APPEARS TO BE A TECHNICAL GAME THAT HAS LITTLE TO DO WITH TRUTH FINDING OR DETERMINING ACTUAL GUILT OR INNOCENCE.

AND EVEN WHERE THE WRONGDOER IS FINALLY BROUGHT TO JUSTICE,
THERE ARE FREQUENTLY ENORMOUS DELAYS.

THE PUBLIC LOSES THE SENSE THAT JUSTICE IS BEING DONE WHEN
PUNISHMENT IS TOO FAR REMOVED FROM THE OFFENDING CONDUCT.

WHETHER WHOLLY DESERVED OR NOT, THE PUBLIC TENDS TO BLAME
THE LEGAL PROFESSION FOR THE PERCEIVED DEFICIENCIES.

THE SAME IS TRUE FOR THE CIVIL JUSTICE SYSTEM.

THE LEGAL PROCESS ON THE CIVIL SIDE, SHOULD ENSURE
REASONABLY PROMPT, AND ACCURATE, RESOLUTION OF DISPUTES.

INDEED, CIVIL PROCEDURE HAS GONE THROUGH A SERIES OF REFORMS
IN ORDER TO ACHIEVE THAT GOAL. FOR EXAMPLE, ONE LARGE SCALE
REFORM, RELATING TO THE RULES OF PLEADING, WAS A RESPONSE TO WHAT
WAS PERCEIVED AS THE OVERLY TECHNICAL NATURE OF THE SYSTEM -- ONE
THAT DENIED JUSTICE FOR ALL SORTS OF TECHNICAL REASONS UNRELATED
TO THE MERITS OF THE UNDERLYING DISPUTE.

ANOTHER REFORM, THE INTRODUCTION OF DISCOVERY, WAS ALSO A
RESPONSE TO A PERCEIVED INJUSTICE IN THE SYSTEM -- THE THOUGHT
THAT TRIAL BY SURPRISE, RATHER THAN A SEARCH FOR THE TRUTH,
RESULTED IN UNJUST RESULTS.

WELL, WE ARE AGAIN AT A STAGE WHERE THERE IS A WIDESPREAD PERCEPTION THAT THE CIVIL LAW SYSTEM IS NOT DOING A GOOD ENOUGH JOB OF DISPENSING JUSTICE.

THE PROCESS HAS BECOME EXTREMELY PROTRACTED AND COSTLY. AN INCREASING AMOUNT OF LEGAL ENERGY IS DEVOTED TO TORTUOUS MANEUVERING THAT SEEMS TO HAVE LITTLE TO DO WITH ARRIVING AT THE TRUTH.

DISCOVERY ABUSE IS LEGION, AND LEGENDARY.

LAWYERS ARE CRITICIZED FOR USING THE SYSTEM FOR DELAY, TO IMPOSE COSTS, FOR ADVANTAGE IN BUSINESS OR OTHER DEALINGS, TO EXTORT SETTLEMENTS, OR FOR ANY OF A MYRIAD OF OTHER REASONS BESIDES LEGITIMATE COMPENSATION FOR WRONGS SUFFERED.

INDEED, WE NOW SEE A WHOLE ALTERNATIVE SYSTEM OF DISPUTE RESOLUTION BEING DEVELOPED IN ORDER TO BY-PASS WHAT IS SEEN AS A WASTEFUL AND INEFFICIENT LEGAL SYSTEM -- I'M SPEAKING HERE OF ARBITRATION, MEDIATION, AND OTHER SO-CALLED A.D.R. TECHNIQUES.

III.

WHAT DOES THIS HAVE TO DO WITH YOU?

AS YOU PROCEED WITH YOUR CAREER, I WOULD URGE YOU TO BE CONCERNED ABOUT PUBLIC DISSATISFACTION WITH OUR PROFESSION.

I WOULD URGE YOU TO LISTEN CAREFULLY TO THE CRITICISM VOICED ABOUT THE LEGAL SYSTEM AND ABOUT LAWYERS.

BE WILLING TO EXAMINE WITH A CRITICAL EYE THE WORKINGS OF THE LEGAL SYSTEM AND HOW WE DO BUSINESS.

WE LAWYERS SHOULD NOT BE OVERLY DEFENSIVE ABOUT CRITICISM OF OUR PROFESSION.

WE SHOULD BE FIRST IN LINE WHEN IT COMES TO BEING WILLING TO RE-EXAMINE THE WAY WE DO BUSINESS AND IMPROVING UPON IT.

AS MEMBERS OF THE LEGAL PROFESSION WE CANNOT AFFORD TO BE SELF-SATISFIED ABOUT THE OPERATION OF OUR LEGAL SYSTEM.

LIKE ALL OTHER ENTERPRISES, THE PRACTICE OF LAW OCCASIONALLY MUST BE ASSESSED TO ASSURE THAT IT IS HEADED IN THE RIGHT DIRECTION.

I HOPE THAT YOU, AS NEW LAWYERS, WILL DEVOTE TIME TO IMPROVING AND STRENGTHENING THE LEGAL SYSTEM -- TO MAKING IT WORK BETTER FOR PEOPLE -- SO IT IS MORE EFFICIENT AND MORE EFFECTIVE AT METING OUT JUSTICE.

YOU ARE JOINING A NOBLE PROFESSION AND A PROUD TRADITION.

AND, IN KEEPING WITH THAT TRADITION, YOU HAVE A SPECIAL OBLIGATION TO PRESERVE, PROTECT, AND WHERE NECESSARY, REFORM, THE LEGAL SYSTEM SO THAT IT CAN BETTER FULFILL ITS IMPORTANT FUNCTION.

BY PLAYING A ROLE IN IMPROVING THE QUALITY OF JUSTICE IN OUR SOCIETY, YOU WILL INCREASE RESPECT FOR THE RULE OF LAW AND THUS STRENGTHEN THE COHESION AND HEALTH OF OUR COMMUNITY.

ONCE AGAIN, CONGRATULATIONS ON CHOOSING SUCH A WORTHY PROFESSION.

CONGRATULATIONS ON SUCCESSFUL COMPLETION OF YOUR LEGAL STUDIES.

I WISH YOU EVERY SUCCESS IN YOUR CAREERS.

GOD BLESS YOU AND GOD'S SPEED.

Catholic University Law School

Commencement Address

Seeing all of you here in this beautiful basilica, I'm reminded of the story about the lawyer who dies and goes to heaven. When he gets there, he's greeted by a gigantic parade. Everyone in heaven has turned out to celebrate his arrival. So he asks St. Peter: "What's with the party? It can't be just because I'm a lawyer. There must be some other lawyers up here." And St. Peter says: "I suppose there are a few. . . . Thomas More was the last one. But the reason we're having a special celebration for you is because you're the oldest person ever to make it to heaven." The lawyer is taken aback. He says, "What do you mean? I'm only 73." And St. Peter replies, "But that's impossible. We checked your billable hours. By our calculations, you must be at least 150."

It's a great pleasure for me to be here this afternoon, and to see before me so many brand-new doctors of the law.

Today, as you put school behind you, and leave this place to enter the working world, you are, I am sure, well aware of the special role that you, as lawyers, play in the life of this nation.

The United States of America is the first nation built by lawyers. Many nations have been forged by warriors, or princes, or priests. Most nations bear the stamp of ancient tribal, religious,

and geographical forces.

But never before was a nation created by lawyers. Our founding document, the U.S. Constitution, is not a concoction of hereditary chieftains, theologians, or military governors. It is the handiwork of a sober group of colonial attorneys. And they gave us not just a governmental structure but also a national personality. More so than any other nation, the character of our nation is the character of our law.

The achievement of those colonial attorneys has been often imitated -- but never surpassed. Other nations have even copied words and phrases verbatim from the American Constitution. Yet these imitations have often come to nought. And their failure points to something important: the success of the rule of law in America is not due merely to a well-wrought constitution.

The magnificent edifice of our Constitutional law is not a merely theoretical construct -- a castle in the air. Its foundations are sunk deep in the soil of an ancient legal and moral culture. It grows out of what the Declaration of Independence calls "self-evident truths" and "the Laws of Nature and Nature's God." It takes for granted certain propositions which must come before the law -- the propositions that all men are created equal; and that all are endowed by their Creator with certain unalienable rights, among which are life, liberty, and the pursuit of happiness. And these propositions were self-evident not because no one had ever doubted them -- many had and some still do. Rather, centuries of moral and religious reflection had created a European

culture which took for granted the dignity of human beings created by God.

The American Constitution was the last act of the classical-Judeo-Christian era. When the Constitutional Convention convened in 1787, the Founding Fathers were still living in an age of ideas; the world had not yet entered the age of ideology. Modern political thought had not yet been radically transformed by the likes of Rousseau, Comte, Hegel or Nietzsche. It had not yet divorced itself from the classical and biblical traditions.

Rooted in the political philosophy of Athens and Rome, in the English common law, and in the moral authority of Biblical religion, the Constitution was the flowering of a particular English tradition of freedom that went back to Magna Carta. Ideas about the freedom and dignity proper to man, which had first taken root in medieval, Catholic England finally flowered in colonial America where those ideas were nourished and sustained -- until recently -- by the Protestant religion of the American majority.

Until recently I say, because the last three decades have seen a sustained assault upon both the notion of self-evident truths and the religious morality that inspired and sustains our society. The recent violence in Los Angeles was a tragic reminder of just how fragile civilized society has become. As the novelist Evelyn Waugh wrote on the eve of WW II: "Barbarism is never wholly defeated And the danger does not come merely from habitual hooligans; we are all potential recruits for anarchy."

In this country, it was during the 1960s that moral anarchy went on a really serious recruitment drive. Back when I was in college and law school, there were plenty of social philosophers telling us to throw off the shackles of conventional morality, the old-fashioned restraints that had been inculcated by parents and clergymen since this country began. The prophets of the so-called "sexual revolution" and the gurus of the drug culture proclaimed the dawn of a new era. They promised that a blissful utopia of peace and love was just around the corner.

Today, twenty-five years later, we are still waiting. As far as I can tell, the sexual free-for-all of the 60s, 70s, and 80s, has not contributed significantly to the sum total of human happiness. And so-called "free love" has turned out to be very costly indeed, for the "sexual revolution" was accompanied by an explosion of pornography, rape, and sexually-transmitted disease. Today, instead of utopia, we see around us the grim harvest of the permissive society: broken homes, fatherless children, widespread drug addiction, teenage pregnancy, over a million abortions a year, crack babies, drug wars, and what we rather quaintly refer to as juvenile "delinquency" -- a carnival of crime.

And yet, the most serious threat to civilized society comes not from people who no longer do what is right. Such people will always be with us. No, a civilized society is most threatened by people who no longer know what is right. These are the true barbarians of our time. As the Jesuit political philosopher John Courtney Murray wrote in the 1950s, the modern barbarian does not

wear bearskins and wield a club. On the contrary, he may wear a Brooks Brothers suit or even -- present company, of course, excluded -- an academic gown.

In his wake, the modern barbarian does not leave death and destruction. Instead, he leaves confusion and despair. He is not "violent" in the usual sense of that word. He steals no property; he takes no lives. He is content to seize and kill only what matters most -- meaning. He may work quietly and calmly; he may be charming and urbane. But when he is finished with his work, he has sucked the meaning from those priceless things which men and women cannot live without: family, faith, morality, law. He empties the meaning from life itself.

The modern barbarian has left a vacuum, and the supposed moral guardians of society -- churches, parents, and schools -- have not filled it. Government stopped talking about responsibility. The churches stopped talking about sin. Our moral senses have become so dull that what were once considered abominations are now banal. We find ourselves skeptical of any enduring certainty in the realm of truth and morals. Our great moral debates go nowhere; they seem to begin and end with the helpless question "Why not?"

Of course, no one claims to enjoy the spiritual hangover that is upon us now. And no one wants to take the blame.

At the risk of seeming presumptuous, however, I would like to take this opportunity to point a finger or two.

For years now, popular culture has looked with disdain upon traditional morality. What was once called "the counter-culture" is now mainstream. Even though so-called "bourgeois values" are now counter-cultural, it remains the case that merely to challenge the old "bourgeois values" is to qualify as an "artist." The entertainment industry -- movies, magazines, music, MTV -- provides a steady diet of sex and violence.

In our newspapers and television programs, traditional moral truths are seldom reinforced, in part for the simple reason that traditional moral truths are not especially entertaining and have a news value of zero. Tom Brokaw will never appear on the evening news and tell us: "Today, in countless cases across the nation, it was demonstrated that children should obey their parents; that personal responsibility and hard-work are important components of character; that sexual promiscuity doesn't lead to happiness; that violence and deception are bad things; that moderation and self-discipline are reliable routes to long-term happiness." As I say, this will never happen. While these truths are often ignored, they are not yet sufficiently forgotten to qualify as "news."

The same thing is true in academia. The academic world puts a premium on novelty -- new theories, bold hypotheses, unexpected discoveries. There are no kudos in academia for merely repeating time-tested truths.

Of course, moral chaos is not something new under the sun, but, in this country, the moral breakdowns of the past have been corrected by periodic bursts of religious enthusiasm. We call them

"great awakenings." Over the centuries, there has been a cycle of license and moral rectitude. In this way, a "moral homeostasis" was maintained.

But look around today. If you see any "great awakening," let me know. Popular culture, spurred on by the unprecedented technology of our mass media, has taken on a life of its own. With a TV for every eye and a walkman for every ear, we are mesmerized by our own popular culture. It is not only feeding the collapse of morality but also stifling any reaction against it.

The moral vacuum in our society has been aggravated by misconceptions about the relationship between church and state. Some people think that freedom of religion means freedom from religion. Speaking at Harvard a few years ago, the writer Tom Wolfe observed that Americans seem to have finally awarded themselves what he called, "the final freedom: freedom from religion and ordinary ethical standards." Wolfe called this the "final freedom" because, without religion, no free society can long endure. (As Whittaker Chambers wrote in his account of his escape from the grip of Communist ideology: "Human societies, like human beings, live by faith and die when faith dies . . . Faith," he said, "is the central problem of this age.")

Extremist notions of the separation of church and state have produced what Richard John Neuhaus once called "the naked public square" -- a civil domain and public discourse stripped of any religious content.

Of course, things were not always this way. People tend to forget that, at the time of the First Amendment, states had establishments of religion. They raised taxes for the specific purpose of supporting the local Protestant clergy and churches. The Constitution itself says nothing whatsoever about a "wall of separation" between church and state. That wall was not erected until this century.

When Alexis de Tocqueville toured the United States, one of the things that struck him most was American religion. "Religion in America," he wrote, "takes no direct part in the government of society, but it must be regarded as the first of their political institutions; for if it does not impart a taste for freedom, it facilitates the use of it. . . . I do not know whether all Americans have a sincere faith in their religion -- for who can search the human heart? -- but I am certain that they hold it to be indispensable to the maintenance of republican institutions. This is not peculiar to a class of citizens or to a party, but it belongs to the whole nation and to every rank of society."

Whether he knew it or not, Tocqueville was echoing the words of George Washington's farewell address. As the first president stepped down from office in 1796, he told the citizens of the new nation: "virtue or morality is a necessary spring of popular government. . . . And let us with caution indulge the supposition that morality can be maintained without religion. . . for reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle. . . . Of all the

dispositions and habits which can lead to political prosperity, religion and morality are indispensable supports." Of course, Washington was right. In the past, it has been this nation's remarkable religious spirit -- for the most part the spirit of Protestant Christianity -- that has provided the indispensable support for the rule of law in America.

There was a time in America when public schools operated in loco parentis and taught children about right and wrong and personal responsibility. The famous Northwest Ordinance of 1789 declared that "schools and the means of learning shall forever be encouraged." According to the Ordinance, the reason for this was simple: "religion, morality, and education" -- in that order -- are "necessary to good government and the happiness of mankind."

Unfortunately, over the past three decades, the ability of public schools to exercise moral influence has been steadily weakened. Moreover, there has been a largely successful effort to drive out of schools and public education any kind of moral perspective or moral content. The result has been the moral lobotomy of the public schools. Some people claim that a value-free education will allow students to form their own values. But all too often, value-free education produces value-free students.

Since religious ideas are not considered legitimate principles by which to order society, when we wrestle with social problems, we look for secular, utilitarian solutions. The bottom line is: what works? The great irony here is that, whatever one may think about the truth-value of religion, strict religious morality definitely

"works." Just ask yourselves: How many Hasidic Jews are on welfare? Or in jail? How many need to be given free condoms and clean hypodermic needles? I'm not saying we should all become Hasidim, but, from a strictly utilitarian point of view, it would certainly solve a lot of social problems.

And this should not come as a surprise. The moral taboos of traditional religion are not just superstitious mumbo-jumbo. They exist for a reason, and it's not because God or our parents or priests are kill-joys. We have moral taboos because they are good for us. God is the ultimate utilitarian. He gave commandments so that we could lead decent, happy, productive lives.

Finally having freed ourselves from the chains of religion, we now find ourselves in the arms of an increasingly unlimited government. Tocqueville saw this coming long ago, when he wrote, "Despotism may govern without faith, but liberty cannot." What Tocqueville meant was that, in a free society with a limited government, each person must be trusted to govern himself. This kind of self-government depends upon moral principles and habits of virtue that are learned not from the criminal justice system, but from religious faith, in the home, at school and at church. The collapse of self-government is always an invitation for government to step in and rule by fiat and threats of punishment. To the degree that faith wanes, we turn inevitably from liberty to despotism.

When people cease to live by the unwritten rules of a

religious faith carried in their hearts, when moral behavior ceases to be second-nature, then we compensate with written legislation. But the new laws do not simply enact what was once taken for granted, because the very need to pass such laws means that the moral consensus, the rallying power of the old assumptions, has disappeared. Thus, while the scope of law and government expands, its moral authority evaporates.

Lacking moral authority, the state defines its problems in terms not of immoral behavior, but of its inconvenient consequences. It treats the symptoms rather than the disease. Around the kitchen table, Americans may still speak of right and wrong, good and evil. But in the "naked public square," we speak the language of secular utilitarianism. It's getting to the point where, if people started throwing themselves out of windows and breaking their legs, we would probably identify the social problem as "incapacitation" and "solve" it by subsidizing the wheelchair industry or passing out free crutches.

That's the way we handle problems like teenage motherhood and illegitimacy. The problem, we say, is not sexual misbehavior. No, the real problem is the absence of condoms. So we pass out condoms to kids. While we think we're solving problems, we subsidize them.

By removing the negative consequences of evil behavior, the state also short-circuits the natural reaction against immorality. In the past, necessity often drove people to virtue. Now, the practical incentives for conventional morality -- that is, the desire to avoid the harsh consequences of immorality, which are

often the beginning of regret, remorse, and personal reform -- are removed by an unlimited, omni-competent government. In this way, the latent stirrings of any "great awakening" are promptly anaesthetized.

The most important socializing institutions are the family, schools, community associations, and churches. Long before a child knows what laws are, the family has transmitted the basic truths about right and wrong, and the sense of duty and responsibility, that make self-government possible. The family is the primary vehicle by which values, ethics, and respect for law are instilled in children.

That is why the single best predictor for the rate of violent crime and burglary in a community is not the average local income or the unemployment rate or the quality of education but the number of single-parent families. As Justice Sandra Day O'Connor has noted, "Our best defense against crime is development in each new generation of a sense of right and wrong." In this area, the family is more important than the law, for the individual conscience, she says, is not the product of "sentencing guidelines or the enforcement of procedural rules. A moral sense," says Justice O'Connor, "begins early, and it is instilled over a lifetime. It is a product of those closest to us: our parents, our relatives and friends, our clergy, and our teachers."

Today, as the traditional family enters the list of endangered species, expanding governmental bureaucracies will naturally try to replace it. But the state cannot replace families, because it

cannot provide what families provide. It cannot provide love. It cannot provide meaning. It cannot provide a conscience. The state must reinforce the family, not replace it.

You have probably heard of the ancient Chinese curse: "May you live in interesting times." I think it is fair to say that all of us here today have been well and truly cursed. We do live in interesting times -- pivotal times in the history of our civilization. And the most revolutionary phenomenon in our day has been the collapse of Communist ideology, the demise of the ideal of social engineering. We do not know what will replace it. We are living in a time of uncertainty.

T.S. Eliot once observed that "socialism was an attempt to design a system so perfect that no one would have to be good." As we stand here, in the closing years of the twentieth century, forced by events to re-evaluate the nature and ends of politics, let us not make the same mistake. Let us not suppose that there is an easy way around the problem of personal virtue. For there are no short-cuts -- and there are many dead ends.

As we live through these pivotal times, when moral consensus is shaky and truths are anything but self-evident, we in America are fortunate to be have a Constitution that sets down in black and white the principles of an age before the dawn of ideology. The men who wrote the Constitution had no illusions about the necessity of personal morality and virtue in a democratic republic.

High on the facade of the Department of Justice, there is an

inscription that captures a profound truth. The Founders of this nation would have understood it well. It says, "Justice in the life and conduct of the state is possible only as it resides first in the hearts and souls of the citizens."

You may say, "Ah yes, that is all fine and good, but what are we to do about it. You can't force people to be good." That is true. As I hope I have made clear, the law alone cannot make people virtuous. Nevertheless, law does have an important role in shaping morality. As Mary Ann Glendon up at Harvard frequently points out, the law tells a story about what we expect of ourselves as a nation. It embodies the values of society; it preserves the time-honored wisdom of civilization; it instructs future generations. And when the law punishes criminals, by exiling them in prison, it stigmatizes and marginalizes evil. In this way, the law helps to establish the healthy taboos which make uncivilized behavior unthinkable.

As a new generation of lawyers, you face a great challenge. Because ours is a legal and litigious society, you are, to some extent, the custodians of our national character. For, as I said at the beginning, the character of our nation is the character of our law. I hope that you will resist attempts to politicize the legal profession. Do not swallow the chic, cynical ideologies that despise traditional religious faiths and our own ancient legal tradition, seeing it as merely a tool of powerful elites in society. The law is not something to manipulate; it is something to practice. Our system of law -- with all its technicalities, and

rules, and procedures -- is not an end in itself. It springs from deep principles of good and evil, and it is designed to yield not simply procedural correctness but the very substance of Justice itself.

So do not hesitate to speak about right and wrong. Perhaps some of you saw a recent, rather unusual editorial in The Wall Stret Journal. It began with a simple statement of fact: "The United States has a drug problem and a high-school sex problem and a welfare problem and an AIDS problem and a rape problem." And that, I might add, is the short list, leaving out such problems as juvenile delinquency, murder, or theft. But the editorial went on: "None of this will go away," it said, "until more people in positions of responsibility are willing to come forward and explain, in frankly moral terms, that some of the things that people do nowadays are wrong."

As lawyers in a legal society, you are going to occupy positions of authority. You must not be afraid to promote and uphold the traditional moral values that have served this nation well from its very beginning. Nothing can substitute for the clear moral vision, the discipline, and respect for the law that strong families, religions, and communities have traditionally provided. May the law never be used against them.

Thank you. And I wish you all the best as you face the challenges that lay before you in these very . . . "interesting" times.

REMARKS OF

WILLIAM P. BARR
UNITED STATES ATTORNEY GENERAL

BEFORE THE
CALIFORNIA PEACE OFFICERS' ASSOCIATION
72ND ANNUAL TRAINING CONFERENCE
PALM SPRINGS, CALIFORNIA

THURSDAY, MAY 21, 1992

THANK YOU VERY MUCH. GOOD AFTERNOON. IT IS A GREAT HONOR FOR ME TO HAVE THIS OPPORTUNITY TO SPEAK TO THE CALIFORNIA PEACE OFFICERS. I'D LIKE TO CONGRATULATE THE HONOREES AND AWARDEES.

A WEEK AGO, I HAD THE HONOR OF PARTICIPATING IN A MEMORIAL CANDLELIGHT SERVICE FOR OUR LAW ENFORCEMENT OFFICERS IN WASHINGTON, D.C. AT THE LAW ENFORCEMENT MEMORIAL. AND IT WAS A VERY MOVING CEREMONY -- SEEING THE SEA OF CANDLES ACROSS THE MALL UPLIFTED TO THE MEMORY OF THE MORE THAN 13 THOUSAND LAW ENFORCEMENT OFFICERS WHO HAVE GIVEN THEIR LIVES IN THE LINE OF DUTY. AND IT WAS A STARK REMINDER OF HOW MUCH SOCIETY OWES TO THE BRAVE AND DEDICATED MEN AND WOMEN WHO SERVE AS PEACE OFFICERS.

THERE ARE OVER 500,000 LAW ENFORCEMENT OFFICERS IN THIS COUNTRY WHO SERVE WITH DECENCY AND DIGNITY, DOING WHAT PRESIDENT BUSH, I THINK RIGHTLY, SAYS IS THE HARDEST JOB IN THIS COUNTRY.

ONE SPEAKER AT THE CANDLELIGHT VIGIL WAS PAUL HARVEY, THE FAMOUS RADIO COMMENTATOR, WHOSE OWN FATHER WAS A POLICE OFFICER. HARVEY WAS 3 YEARS OLD WHEN HIS FATHER WAS KILLED IN THE LINE OF DUTY. WITH ELOQUENT WORDS, PAUL HARVEY DESCRIBED THE ALMOST SUPER-HUMAN DEMANDS THAT CONTEMPORARY SOCIETY IS ASKING OF POLICE OFFICERS TODAY.

HE SAYS: "THE POLICEMAN MUST BE A MINISTER, SOCIAL WORKER, DIPLOMAT, TOUGH-GUY, AND PEACE OFFICER WHO MUST MAKE IN AN INSTANT DECISIONS WHICH WOULD REQUIRE MONTHS OF A LEGAL SCHOLAR. HE IS EXPECTED TO RISK HIS LIFE TO CAPTURE A HOOD WHO WILL GET PAROLED ANYWAY. AND WHEN A POLICE OFFICER KISSES HIS WIFE AND KIDS GOODNIGHT, HE NEVER KNOWS WHETHER HE IS KISSING THEM GOODBYE. AND OF COURSE, HE HAS TO BE INGENIOUS. HE'LL HAVE TO FEED A FAMILY ON A POLICE OFFICER'S SALARY." I DON'T THINK WE'VE EVER ASKED MORE OF THE POLICE -- I DON'T THINK ANY SOCIETY COULD EVER ASK MORE OF POLICE -- TO SOLVE MORE COMPLEX PROBLEMS. I DON'T THINK POLICE IN THIS COUNTRY HAVE EVER HAD TO OPERATE IN A

MORE DANGEROUS AND VIOLENT ENVIRONMENT WITH INCREASING RESISTANCE TO AUTHORITY.

OVER THE LAST FEW WEEKS THERE HAS BEEN A LOT OF FOCUS ON THE ISSUE OF POLICE MISCONDUCT. I'M CONCERNED THAT THE INTENSE FOCUS AND THE WAY THINGS HAVE BEEN PROJECTED ARE DISTORTING THE TRUTH ABOUT HUNDREDS OF THOUSANDS OF MEN AND WOMEN WHO WEAR THE UNIFORM. NO ONE CONDEMNNS THE WRONGDOING MORE THAN LAW ENFORCEMENT ITSELF AND WHEN IT OCCURS, IT IS A SERIOUS MATTER -- WE HAVE THE OBLIGATION TO DEAL WITH IT AND WE DEAL WITH IT IN LAWFUL PROCESS. BUT SUCH INSTANCES ARE RELATIVELY RARE AND ISOLATED AND SHOULD NOT BE GENERALIZED AND USED TO TARNISH THE GOOD NAME OF THE POLICEMEN OF THIS COUNTRY.

THE VAST OVERWHELMING MAJORITY OF POLICE OFFICERS ARE HIGHLY DEDICATED AND PROFESSIONAL AND ARE DOING A SUPERB JOB. NOW, SOME ARE TRYING TO CREATE THE IMPRESSION THAT POLICE ARE THE MAIN PROBLEM AND THAT THE GREATEST THREAT WE FACE IN OUR SOCIETY IS POLICE MISCONDUCT. I THINK THAT'S WRONG. THE MAIN LAW ENFORCEMENT PROBLEM OUR SOCIETY FACES IS FROM VIOLENT CRIMINALS. LAW ENFORCEMENT IS NOT THE ENEMY AND NOT SOCIETY'S ENEMY, IT IS SOCIETY'S PROTECTOR.

ALL OF US KNOW THAT THE LIFE OF A LAW ENFORCEMENT OFFICER IS ONE OF DAILY SACRIFICE. YOU SACRIFICE TIME FROM YOUR FAMILIES, SACRIFICE PURSUIT OF FINANCIAL GAIN, SACRIFICE PERSONAL SAFETY, AND IN FAR TO MANY CASES, YOU ARE WILLING TO SACRIFICE YOUR LIFE. WHAT IS IT THAT UNDERLIES THIS DEVOTION OF LAW ENFORCEMENT?

I BELIEVE THAT THE UNPARALLELED DEVOTION OF MEN AND WOMEN IN LAW ENFORCEMENT IS ROOTED IN LAW ENFORCEMENT'S FUNDAMENTAL PURPOSE. THAT PURPOSE IS TO SECURE AND MAINTAIN THAT ESSENTIAL PEACE AND ORDER IN SOCIETY THAT IS THE BASIS FOR ALL HUMAN PROGRESS. POLICE ARE OFTEN DESCRIBED AS A THIN BLUE LINE, AND THIS IS CERTAINLY TRUE. BUT LAW ENFORCEMENT IS MORE THAN A

DEFENSE.

IT IS THE FOUNDATION OF ALL SOCIAL ORDER. ALL HOPES, ALL DREAMS ARE DEPENDENT UPON THE ABILITY OF LAW ENFORCEMENT TO MAINTAIN THE RULE OF LAW.

THAT FOUNDATION OF LAW ENFORCEMENT IS WHAT I WOULD LIKE TO SPEAK TO YOU ABOUT TODAY.

SINCE I BECAME ATTORNEY GENERAL, I HAVE BEEN STRESSING:

-- THAT THE FIRST DUTY OF GOVERNMENT IS TO PROTECT THE PHYSICAL SECURITY OF ITS CITIZENS;

-- THAT WE MUST STEP UP THE FIGHT AGAINST VIOLENT CRIME AND DO SO BY BUILDING A BROAD COALITION THAT ENGAGES ALL ELEMENTS OF THE COMMUNITY IN A WORKING PARTNERSHIP WITH LAW ENFORCEMENT; AND

-- THAT, IF WE ARE TO HAVE ANY CHANCE OF REBUILDING CRIME-PLAGUED URBAN COMMUNITIES, OUR SOCIAL PROGRAMS MUST GO HAND-IN-HAND WITH STRONG LAW ENFORCEMENT.

I BELIEVE THESE IDEAS FIT IN WELL WITH WHAT THE PEACE OFFICERS ARE TRYING TO ACCOMPLISH, AS YOU TRY TO KEEP OUR STREETS SAFE AND OUR NEIGHBORHOODS SECURE FROM VIOLENT CRIME.

IT IS ESPECIALLY APPROPRIATE THAT I AM SPEAKING HERE IN THE WAKE OF THE RIOTS IN LOS ANGELES.

THOSE RIOTS SERVE AS A STARK REMINDER OF THE RELATIONSHIP BETWEEN THE NEED FOR LAW AND ORDER, ON THE ONE HAND, AND OUR DESIRE TO PURSUE PROGRAMS THAT PROMOTE ECONOMIC ADVANCEMENT AND SOCIAL REVITALIZATION ON THE OTHER.

I WANT TO FOCUS ON THAT RELATIONSHIP FOR A MOMENT.

IN PUBLIC DISCOURSE THESE DAYS, WE SOMETIMES HEAR PEOPLE DEBUNK THE NEED FOR A TOUGHER LAW ENFORCEMENT RESPONSE TO VIOLENT CRIME.

THEY FREQUENTLY DISMISS ANY RELIANCE ON POLICE, PROSECUTORS, AND PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED.

INSTEAD, THEY ARGUE THAT -- TO DEAL WITH VIOLENT CRIME -- WE SHOULD RELY PRINCIPALLY ON EDUCATION, HOUSING AND OTHER SOCIAL PROGRAMS DESIGNED TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

TODAY, I WANT TO MAKE THREE POINTS WHICH RELATE TO THIS TENSION BETWEEN LAW ENFORCEMENT RESPONSE AND A SOCIAL PROGRAMS' RESPONSE TO VIOLENT CRIME.

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT, THESE DAYS, WE CANNOT AFFORD TO DE-EMPHASIZE A TOUGH LAW ENFORCEMENT APPROACH.

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL REHABILITATION SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE.

I.

SO, FIRST LET ME TURN TO WHY I BELIEVE A TOUGH LAW ENFORCEMENT RESPONSE MUST CONTINUE TO BE A PRIORITY.

VIOLENT CRIME IN OUR COUNTRY IS AT INTOLERABLY HIGH LEVELS.

MURDERS AND RAPE ARE ON THE INCREASE.

GANG VIOLENCE IS SPREADING.

CRIME SEEMS TO BE BECOMING MORE VICIOUS AND WANTON.

OF PARTICULAR CONCERN, JUVENILES ARE RESPONSIBLE FOR AN INCREASING PART OF THE VIOLENT CRIME WE SEE ABOUT US.

TODAY, FOR EXAMPLE, YOUTHS 18 AND UNDER ACCOUNT FOR OVER 21 PERCENT OF ALL ARRESTS FOR MURDER.

AND WE ARE SEEING A COLD-BLOODEDNESS, A REMORSELESSNESS, WE HAVE NEVER SEEN BEFORE.

INNER-CITY NEIGHBORHOODS ARE PARTICULARLY HARD HIT BY VIOLENT CRIME.

EVERYDAY WE SEE HOUSES GUARDED BY BARS -- BARS ON THE WINDOWS, BARS ON THE DOORS.

THIS REMINDS US THAT IT IS THE LAW-ABIDING CITIZENS WHO ARE BEING DEPRIVED OF THEIR FREEDOM -- FORCED TO LIVE BEHIND LOCKS AND BARS.

IT IS THE VIOLENT PREDATORS WHO SEEM TO BE AT LIBERTY -- FREE TO ROAM THE STREETS WITH IMPUNITY.

AND IT IS THE POOR AND MINORITIES THAT ARE MOST VICTIMIZED.

LOW-INCOME HOUSEHOLDS SUFFER THE HIGHEST ECONOMIC LOSSES, AND BLACKS ARE DISPROPORTIONATELY THE VICTIMS OF MURDER, RAPE, AND AGGRAVATED ASSAULT.

THOSE WHO ARGUE THAT WE SHOULD DE-EMPHASIZE TOUGH LAW ENFORCEMENT MEASURES AND INSTEAD ADDRESS CRIME PRIMARILY THROUGH EDUCATION, HOUSING AND OTHER SOCIAL PROGRAMS ARE MISSING A BASIC

POINT.

IN THIS PERVASIVE ATMOSPHERE OF VIOLENCE AND FEAR, EVEN THE BEST-DESIGNED SOCIAL PROGRAMS CANNOT TAKE ROOT.

THE PROBLEM TODAY IS THAT EFFORTS AT REVITALIZING OUR URBAN COMMUNITIES ARE BEING STRANGLERED BY CRIME.

IT IS INCREASINGLY CLEAR THAT TOUGH LAW ENFORCEMENT MEASURES TO SUPPRESS VIOLENT CRIME ARE AN ABSOLUTE PRE-REQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

WHAT GOOD IS IT TO BUILD PUBLIC HOUSING ONLY TO SEE IT TAKEN OVER AND RUN BY DRUG TRAFFICKERS?

WHAT GOOD IS IT TO PUT A "MODEL SCHOOL" IN OUR INNER-CITY NEIGHBORHOOD ONLY TO SEE IT BECOME A BATTLEGROUND FOR GANGS?

IN MY VIEW, THE CRIME PROBLEM HAS REACHED THE POINT THAT ANY EFFORTS AT SOCIAL REHABILITATION WILL BE OVERWHELMED UNLESS COUPLED WITH AGGRESSIVE STEPS TO SUPPRESS VIOLENT CRIME.

IT IS SAID THAT "POVERTY CAUSES CRIME".

BUT -- TODAY -- WHAT IS CLEAR IS THAT "CRIME IS CAUSING POVERTY".

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN NEIGHBORHOODS TAKING JOBS AND OPPORTUNITIES WITH THEM.

POTENTIAL INVESTORS AND WOULD-BE EMPLOYERS ARE SCARED AWAY.

EXISTING OWNERS ARE DETERRED FROM MAKING IMPROVEMENTS.

AS PROPERTY VALUES GO DOWN, OWNERS DISINVEST.

IN SHORT, YOU CANNOT HAVE PROGRESS AMID CHAOS.

NO URBAN REDEVELOPMENT PROGRAM CAN ARREST THE DECLINE OF OUR INNER CITIES -- AND NO ANTI-POVERTY SOCIAL PROGRAMS CAN TAKE HOLD -- UNLESS THEY ARE COMBINED WITH TOUGH LAW ENFORCEMENT MEASURES TO REDUCE CRIME.

II.

AND THAT BRINGS ME TO MY SECOND POINT -- HOW DO WE GO ABOUT GETTING THESE CRIMINALS OFF THE STREET, AND MAKING OUR COMMUNITIES SAFER?

THOSE WHO PUT THEIR HOPE IN SOCIAL REHABILITATION TO REDUCE CRIME IN THE LONG TERM MUST ALSO REALIZE THAT -- IN THE SHORT TERM -- THERE ARE MANY CHRONIC, VIOLENT CRIMINALS WREAKING HAVOC AND DESTRUCTION IN OUR STREETS.

OUR EXPERIENCE SHOWS THAT THE ONLY WAY TO INCAPACITATE THESE VIOLENT CRIMINALS IS TO LOCK THEM UP. IF WE DON'T TAKE FIRM ACTION TO DEAL WITH THE PROBLEM OF VIOLENT CRIME TODAY, THEN ALL OF OUR HOPES FOR PROGRESS TOMORROW WILL BE DASHED.

I THINK OUR PRIORITY IN LAW ENFORCEMENT IS TO TARGET AND INCARCERATE THESE CHRONIC, REPEAT OFFENDERS. ONE STUDY, FOR EXAMPLE, SHOWS 240 CRIMINALS WERE RESPONSIBLE FOR 500,000 CRIMES OVER AN ELEVEN YEAR PERIOD. THIS GROUP OF CHRONIC OFFENDERS IS RESPONSIBLE FOR A DISPROPORTIONATE PART IN PREDATORY VIOLENCE WE SEE AROUND US -- AND WE KNOW THAT THESE OFFENDERS START TYPICALLY COMMITTING THESE CRIMES AS JUVENILES AND KEEP ON DOING IT AS ADULTS. THEY ARE ON BAIL ON PAROLE AND ON PROBATION.

WITH THIS CAREER CRIMINAL GROUP, ONE THING IS CLEAR, THE ONLY TIME WE KNOW THEY ARE NOT GOING TO COMMIT CRIMES, IS WHEN THEY ARE LOCKED UP. INCARCERATION IS THE ONLY EFFECTIVE WAY TO PREVENT THESE PREDATORS FROM COMMITTING MORE CRIMES. IN MY VIEW,

THE ONLY ACCEPTABLE RESPONSE TO PROTECT SOCIETY IS TO CLEAR DANGER.

FOR EXAMPLE, 30% OF CRIMES ARE COMMITTED BY PEOPLE WHO ARE ON BAIL, PROBATION OR PAROLE. THAT'S OVER 6,500 PEOPLE SLAIN EVERY YEAR BY PEOPLE WHO WERE IN CUSTODY AND RELEASED. WE KNOW WITH MORAL CERTAINTY THAT IN MORE TIME, IF THESE SERIOUS VIOLENT OFFENDERS ARE HELD IN PRISON OR IN JAIL, FEWER VIOLENT CRIMES AND FEWER VICTIMS THERE WILL BE. THE MORE OF THESE SERIOUS VIOLENT OFFENDERS ARE RELEASED AND LET BACK OUT ON THE STREETS, THE MORE VIOLENT CRIMES AND THE MORE VICTIMS THERE WILL BE.

SO, IN OUR LIFETIME, AND THE LIFETIME OF OUR CHILDREN, I THINK THE ONLY WAY WE ARE GOING TO BE ABLE TO ACTUALLY DECREASE THE LEVEL OF VIOLENT CRIMES IS TO PURSUE THE POLICY OF TARGETING AND INCAPACITATING THE MOST VIOLENT CHRONIC OFFENDERS AND ONCE WE CATCH THEM, HAVE LEGAL TOOLS AND THE PHYSICAL CAPACITIES OF THE PRISONS THAT WILL HOLD THEM IN CUSTODY FOR THE LENGTH OF TIME THAT IS DICTATED BY THE PUBLIC'S SAFETY.

IF WE ARE GOING TO MAKE ANY PROGRESS IN FIGHTING VIOLENT CRIME IN THE 1990'S, WE WILL HAVE TO DO THREE THINGS:

FIRST, WE ARE GOING TO HAVE TO CONTINUE TO MAKE SUBSTANTIAL INVESTMENTS IN OUR LAW ENFORCEMENT.

SECOND, WE ARE GOING TO HAVE TO CONTINUE TO PRESS FOR URGENTLY-NEEDED LEGAL REFORMS AT BOTH THE FEDERAL AND THE STATE LEVEL.

THIRD, WE ARE GOING TO HAVE TO BE AS AGGRESSIVE AS WE CAN BE IN USING OUR RESOURCES TO TARGET AND INCAPACITATE THE MOST VIOLENT OFFENDERS.

LET ME TOUCH BRIEFLY ON EACH OF THESE.

AS TO RESOURCES, EVEN IN THESE VERY TIGHT FISCAL TIMES, WE HAVE BEEN VERY FORTUNATE AT THE FEDERAL LEVEL TO HAVE A PRESIDENT WHO HAS MADE FIGHTING CRIME A PRIORITY.

PRESIDENT BUSH HAS INCREASED THE DEPARTMENT OF JUSTICE'S BUDGET BY 60 PERCENT IN THE FIRST THREE YEARS OF HIS ADMINISTRATION, AND HE IS SEEKING ANOTHER 10 PERCENT THIS YEAR.

THIS HAS MEANT THOUSANDS OF NEW FEDERAL PROSECUTORS AND LAW ENFORCEMENT AGENTS AROUND THE COUNTRY.

MOST IMPORTANT OF ALL, DURING THE FIRST 3 YEARS, PRESIDENT BUSH HAS OBTAINED FUNDING TO INCREASE THE FEDERAL PRISON CAPACITY 118 PERCENT -- MORE THAN DOUBLING FEDERAL PRISON CAPACITY.

AND, IN THE WAR ON DRUGS, WE'VE GONE FROM \$4.5 BILLION IN THE BEGINNING OF THE ADMINISTRATION TO \$12.7 BILLION THIS YEAR.

BUT, IT IS AT THE STATE AND LOCAL LEVEL WHERE THE MAIN BATTLE IS BEING FOUGHT. IF WE ARE GOING TO MAKE ANY HEADWAY AGAINST VIOLENT CRIME, THIS SAME KIND OF COMMITMENT TO RESOURCES IS GOING TO HAVE TO BE MIRRORED AT THE STATE LEVEL.

NOW IS NOT THE TIME TO SCRIMP ON RESOURCES FOR LAW ENFORCEMENT. AND NOW IS NOT THE TIME FOR CUTBACKS.

NOW, I KNOW TIMES ARE TIGHT, BUT WE HAVE TO GO BACK TO BASICS. IF WE USE THE SAME KIND OF LOGIC IN LAW ENFORCEMENT FUNDING THAT WE DO IN OTHER TYPES OF FUNDING, LAW ENFORCEMENT BUDGETS WOULD BE MUCH, MUCH HIGHER. WE SPEND BILLIONS AND BILLIONS OF DOLLARS IN THIS COUNTRY PROTECTING PEOPLE FROM RELATIVE DANGER. WE SPEND BILLIONS BUILDING SAFETY FEATURES FOR OUR HOMES. WE SPEND BILLIONS AND BILLIONS OF DOLLARS ON CAR INSPECTION PROGRAMS, REGULATING AIR QUALITY AND REMOVING ASBESTOS. IN MANY OF OUR FEDERAL PROGRAMS WE SPEND AS MUCH AS

\$2.6 MILLION TO AVOID THE RISK TO SAVE ONE LIFE. IF WE PROVIDE THAT KIND OF LOGIC FOR LAW ENFORCEMENT, I DON'T THINK ANYONE COULD SAY WE ARE SPENDING TOO MUCH OR ENOUGH TODAY ON LAW ENFORCEMENT.

SECONDLY, IN ADDITION TO RESOURCES, WE'RE STILL IN DIRE NEED OF LEGAL REFORM IN THIS COUNTRY.

WE TOUGHENED UP THE FEDERAL SYSTEM CONSIDERABLY DURING THE 80'S. WE GOT STRONG PRE-TRIAL DETENTION; WE ABOLISHED PAROLE; WE GOT TOUGH SENTENCES.

RIGHT NOW, THE FEDERAL SYSTEM IS PROBABLY THE TOUGHEST IN THE NATION. BUT MORE HAS TO BE DONE.

THE PRESIDENT'S CRIME BILL WILL CARRY OUT THIS UNFINISHED AGENDA AT THE FEDERAL LEVEL. HE'S SEEKING THE DEATH PENALTY. HE'S SEEKING STRICTER PENALTIES FOR FELONS WHO USE FIREARMS IN THEIR OFFENSES. HE'S SEEKING A BROADENING OF THE GOOD FAITH EXCEPTION TO THE EXCLUSIONARY RULE, SO THAT CRIMINALS DO NOT GO FREE DUE TO INADVERTENT ERRORS BY THE POLICE. AND HE'S SEEKING, MOST IMPORTANT OF ALL, AN END TO HABEAS CORPUS ABUSE.

WE RECENTLY SAW A TEXTBOOK EXAMPLE OF THE ABUSE OF HABEAS CORPUS IN THE CASE OF ROBERT ALTON HARRIS HERE IN CALIFORNIA -- THE MURDERER OF TWO TEENAGE BOYS -- WHO WAS ABLE TO DELAY HIS PUNISHMENT FOR 11 YEARS BY FILING A SERIES OF 16 STATE AND FEDERAL PETITIONS.

THE ABUSE OF THE FEDERAL WRIT OF HABEAS CORPUS IS UNDERMINING THE INTEGRITY OF THE STATE CRIMINAL JUSTICE SYSTEM. IT HAS BECOME AN AVENUE FOR THE ENDLESS REOPENING OF CASES AND THE RAISING OF FRIVOLOUS CLAIMS THAT HAVE NOTHING TO DO WITH GUILT OR INNOCENCE.

EVERY YEAR THE VICTIMS' FAMILIES HAVE TO WITNESS THE

SPECTACLE OF THIS REOPENING OF CASES. JUSTICE NEVER COMES TO AN END. BECAUSE OF THIS ABUSE, THERE IS NO FINALITY OF JUDGEMENT. WE HAVE TO PUT A STOP TO IT. THAT IS WHY THE PRESIDENT'S CRIME BILL IS SO IMPORTANT.

BUT REFORM ON THE FEDERAL LEVEL CAN ONLY HAVE A LIMITED IMPACT ON VIOLENT STREET CRIME. WE STILL NEED LEGAL REFORM ON THE STATE LEVEL.

IF THE 80'S WERE THE TIME WHERE WE REFORMED THE FEDERAL SYSTEM, THE 90'S HAVE TO BE A TIME WHERE WE REFORM THE STATE SYSTEMS.

IN THE NEXT WEEK OR SO I WILL BE RELEASING A COMPREHENSIVE VIOLENT CRIME REPORT THAT CONTAINS 24 SPECIFIC RECOMMENDATIONS ON STRENGTHENING STATE CRIMINAL JUSTICE SYSTEMS.

IT CONTAINS, AMONG OTHER THINGS, SPECIFIC RECOMMENDATIONS ON TRUTH IN SENTENCING; UPDATED EVIDENTIARY RULES TO ENHANCE THE TRUTH-FINDING FUNCTIONS OF THE TRIAL; IMPROVEMENTS IN THE JUVENILE JUSTICE SYSTEM; AND PROVISIONS WHICH PROTECT THE ROLE OF THE VICTIM IN THE CRIMINAL JUSTICE PROCESS.

I HOPE THE PEACE OFFICERS CAN JOIN US IN A GRASSROOTS EFFORT TO STRENGTHEN STATE CRIMINAL JUSTICE SYSTEMS.

BEYOND THE NEED FOR RESOURCES AND REFORM -- I MENTIONED THE NEED TO FOCUS OUR EXISTING RESOURCES WHERE THEY WILL DO THE MOST GOOD AGAINST THE HARDEST CORE ELEMENT.

WHILE WE RECOGNIZE THAT 95% OF VIOLENT CRIME FALLS WITHIN STATE AND LOCAL RESPONSIBILITY, THIS ADMINISTRATION BELIEVES IN FORGING A STRONG PARTNERSHIP -- ESPECIALLY WITH STATE LAW ENFORCEMENT --- TO FIGHT VIOLENT CRIME TOGETHER.

SO WE HAVE INITIATED A NUMBER OF PROGRAMS WHERE, BY WORKING JOINTLY WITH STATE AND LOCAL LAW ENFORCEMENT, WE CAN BRING OUR FEDERAL ASSETS TO BEAR AND HELP THE STATES DEAL MORE EFFECTIVELY WITH
HARDCORE OFFENDERS.

- o IN "OPERATION TRIGGERLOCK", FOR EXAMPLE, WE USE TOUGH FEDERAL FIREARM STATUTES TO GIVE HEAVY MANDATORY MINIMUM SENTENCES TO CHRONIC REPEAT FIREARM OFFENDERS.
- o BECAUSE OF OUR TOUGH FEDERAL FIREARM STATUTES, DRUG STATUTES AND OUR RICO STATUTES, WE HAVE THE ABILITY TO TAKE OUT ENTIRE GANG ORGANIZATIONS IN ONE FELL SWOOP.
- o ANOTHER EFFECTIVE PROGRAM IS OPERATION GUNSMOKE, WHICH WE CONCLUDED JUST LAST WEEK. THIS WAS THE LARGEST FUGITIVE ROUND UP IN HISTORY, AND WAS CARRIED OUT IN 14 CITIES ACROSS THE NATION.
- o ALSO, WE HAVE INITIATED NEW POLICIES TO HELP THE STATES IN PRISON LITIGATION. IN JANUARY I STATED OUR POSITION THAT THE BUSINESS OF RUNNING PRISONS BELONGS TO STATE OFFICIALS, NOT TO JUDGES AND SPECIAL MASTERS, AND THAT WE WOULD SUPPORT THOSE STATES WHO SEEK TO REGAIN CONTROL OVER THEIR PRISON SYSTEMS.

WHAT ALL THIS MEANS IS THAT, IF WE FOCUS OUR EFFORTS ON INCAPACITATING CHRONIC VIOLENT OFFENDERS, AND IF WE INVEST ADEQUATE RESOURCES, ACHIEVE NEEDED LEGAL REFORMS, AND WORK COOPERATIVELY IN MOUNTING AGGRESSIVE OPERATIONS (PARTICULARLY THOSE TARGETED AT CHRONIC OFFENDERS) -- THEN WE WILL HAVE A REAL PROSPECT OF REDUCING VIOLENT CRIME AND PROVIDING AN ENVIRONMENT WITHIN WHICH -- AND A FOUNDATION UPON WHICH -- OUR EFFORTS TO REBUILD OUR COMMUNITIES CAN BE SUCCESSFUL.

III.

AND THAT BRINGS ME TO MY THIRD AND FINAL POINT.

OVER THE LAST TWENTY-FIVE YEARS WE HAVE POURED TRILLIONS OF DOLLARS INTO SOCIAL WELFARE PROGRAMS.

HAVE WE GOTTEN ALL WE SHOULD FROM THIS INVESTMENT?

WHILE SOME PROGRAMS -- SUCH AS HEAD START -- HAVE PROVEN WORTHWHILE, I THINK THAT ANY FAIR-MINDED OBSERVER WOULD HAVE TO SAY THAT OVERALL, WE SHOULD DO BETTER.

IN MY VIEW, WE MUST LEARN FROM OUR EXPERIENCES AND BE SMARTER ABOUT HOW WE SPEND ON SOCIAL PROGRAMS.

IN THIS REGARD, FROM THE BEGINNING OF HIS ADMINISTRATION, THE PRESIDENT HAS BEEN PUSHING A REFORM AGENDA THAT SEEKS TO AVOID THE MISTAKES OF THE PAST, AND TO PROMOTE REAL OPPORTUNITY.

-- THE PRESIDENT BELIEVES WE MUST PROVIDE OPPORTUNITY FOR PEOPLE, NOT DEPENDENCY. WE HAVE TO PROVIDE NOT ONLY A SAFETY NET, BUT A LADDER OUT OF POVERTY. THAT IS WHY WE ARE PROPOSING ENTERPRISE ZONES TO BRING JOBS AND INVESTMENT INTO THE CITIES. AND THAT'S WHY WE'RE PROPOSING H.O.P.E. -- TO GIVE PUBLIC HOUSING RESIDENTS THE OPPORTUNITY TO PURCHASE THEIR HOMES.

-- WE MUST STRENGTHEN THE FAMILY AND THE OTHER SOCIAL INSTITUTIONS THAT ARE CRITICAL FOR A SUCCESSFUL COMMUNITY -- NOT TEAR THEM DOWN AND TRY TO REPLACE THEM WITH AN ALL POWERFUL, ALL KNOWING GOVERNMENT. WE HAVE BEEN URGING WELFARE REFORM. THE CURRENT SYSTEM REWARDS NON-MARRIAGE AND ILLEGITIMACY. WE HAVE TO TURN AROUND THESE INCENTIVES AND PROMOTE STABLE FAMILY LIFE.

-- AND, WE MUST COORDINATE OUR SOCIAL PROGRAMS WITH A

FOUNDATION OF STRONG, TOUGH LAW ENFORCEMENT SO THAT LAW ABIDING CITIZENS IN OUR INNER CITIES CAN RECLAIM THEIR COMMUNITIES FROM VIOLENT PREDATORS AND PULL THEMSELVES UP OUT OF POVERTY.

AND TO ACCOMPLISH THIS, THE PRESIDENT HAS LAUNCHED THE "WEED AND SEED" PROGRAM. THE PROGRAM IS CURRENTLY UNDERWAY IN 20 CITIES ACROSS THE COUNTRY -- INCLUDING LOS ANGELES, SAN DIEGO, AND SANTA ANA HERE IN CALIFORNIA.

THE PRESIDENT IS SEEKING A SUBSTANTIAL EXPANSION OF THE WEED AND SEED PROGRAM IN HIS BUDGET FOR NEXT YEAR -- HE IS REQUESTING \$500 MILLION FOR THE PROGRAM.

WEED AND SEED INVOLVES THE TARGETING OF SPECIFIC BESIEGED NEIGHBORHOODS AND THE FOCUSING OF RESOURCES TO ASSIST THE RESIDENTS TO TAKE BACK THEIR STREETS AND REBUILD THEIR COMMUNITIES.

HERE'S HOW IT WORKS. AS THE FIRST STEP, FEDERAL, STATE AND LOCAL LAW ENFORCEMENT INTEGRATE AND FOCUS THEIR EFFORTS WITHIN A PARTICULAR NEIGHBORHOOD AND, WORKING WITH THE COMMUNITY, "WEED OUT" THE VIOLENT OFFENDERS, THE GANGS, AND THE DRUG TRAFFICKERS.

THEN, AS THE STREETS ARE RECLAIMED FROM THE CRIMINALS, INTENSIVE COMMUNITY POLICING IS PUT INTO PLACE SO THAT THE GROUND IS HELD AFTER IT IS TAKEN.

AND FINALLY, THE BROAD PANOPLY OF FEDERAL, STATE, AND LOCAL GOVERNMENT RESOURCES, AND -- AT LEAST AS IMPORTANTLY -- PRIVATE SECTOR RESOURCES ARE BROUGHT TO BEAR AND FOCUSED ON THE COMMUNITY TO "SEED IN" LONG TERM STABILITY AND GROWTH.

IN SHORT, WEED AND SEED IS A PROGRAM DESIGNED TO HELP RESIDENTS HELP THEMSELVES. TO ALLOW THEM TO FIGHT CRIME AND RECLAIM THEIR STREETS. TO ALLOW THEM TO CREATE THE ATMOSPHERE IN

WHICH LONG TERM PROGRESS IS POSSIBLE.

IT IS A STRATEGY THAT COMBINES TOUGH LAW ENFORCEMENT WITH PHYSICAL, ECONOMIC AND MORAL REVITALIZATION.

THE CHALLENGES AHEAD OF US ARE SUBSTANTIAL ONES. BUT I BELIEVE WE ARE ADVANCING A REFORM AGENDA THAT IS BASED ON THESE LESSONS FROM THE PAST AND THAT CAN SUCCEED IN REVITALIZING OUR INNER CITIES.

THE OVERWHELMING MAJORITY OF OUR CITIZENS ARE LAW ABIDING PEOPLE WHO WANT NOTHING MORE THAN A CHANCE TO LIVE IN PEACE, TO HAVE A JOB, AND TO WORK HARD TO IMPROVE THEIR LIVES AND THOSE OF THEIR CHILDREN.

WE OWE IT TO THESE PEOPLE TO MOVE FORWARD WITH A REFORM PROGRAM THAT HELPS THEM ACHIEVE THOSE GOALS. AND WE OWE YOU, THE PEACE OFFICERS, OUR GRATITUDE FOR THE MANY SACRIFICES YOU MAKE IN KEEPING THE ORDER AND MAKING LIFE BETTER FOR ALL OF US.

THANK YOU VERY MUCH.

#

BRENT SOCIETY AWARDS DINNER

MAY 20, 1992

- HONORED
- GREAT EXAMPLE
FOR YOUR GEN.
- MAKE
US
VERY
PROUD
GIVE
US
INSPIRE
FOR
FUTURE

GOOD EVENING. IT'S A PLEASURE FOR ME TO BE HERE TONIGHT. AND IT'S A GREAT HONOR FOR ME TO RECEIVE THIS YEAR'S BRENT AWARD.

WHEN I THINK OF THE OTHERS WHO HAVE RECEIVED THIS AWARD -- MEN LIKE HENRY HYDE AND VERNON WALTERS, WHO HAVE DEDICATED LONG AND FRUITFUL LIVES TO THE SERVICE OF THIS NATION -- I QUESTION WHETHER I AM DESERVING TO BE RECEIVING SUCH RECOGNITION.

I HOPE THAT I WILL LIVE UP NOT ONLY TO THE EXPECTATIONS AND IDEALS OF THE BRENT SOCIETY BUT ALSO TO THE EXAMPLE OF SUCH MEN.

THANK YOU.

AS YOU CAN IMAGINE, I'VE HAD A LOT ON MY MIND THE LAST FEW WEEKS. FOR ME, THE RECENT VIOLENCE IN LOS ANGELES WAS A TRAGIC REMINDER OF JUST HOW FRAGILE OUR SOCIETY HAS BECOME.

FOR NEARLY A MONTH NOW, PEOPLE HAVE BEEN REFLECTING ON THE VIOLENCE IN LOS ANGELES -- LOOKING FOR SO-CALLED "ROOT CAUSES" AND TRYING TO DRAW LESSONS FROM THE TRAGEDY.

FOCUSED ATTENTION ON BROADER PROBLEMS OF CITIES
CRIME, DRUGS, GANGS
CRACK BABIES

THE MORE I HAVE THOUGHT ABOUT THIS, THE MORE I THINK THAT A

BIG PART OF WHAT HAPPENED IS RELATED TO THE GENERAL MORAL DECLINE WE SEE ALL ABOUT US IN SOCIETY.

OVER THE PAST 30 YEARS A MORAL CRISIS HAS BEEN BUILDING.

IN A SENSE, THE HARDWARE AND SOFTWARE OF MORALITY IN OUR SOCIETY IS BEING DESTROYED.

LET ME EXPLAIN WHAT I MEAN.

BY HARDWARE I MEAN THE INSTITUTIONS BY WHICH WE TRANSMIT VALUES, NORMS, MORALITY FROM GENERATION TO GENERATION.

UNLIKE ANIMALS, HUMAN BEHAVIOR PATTERNS OR CHARACTER IS NOT HARD-WIRED OR INSTINCTIVE. IT IS LEARNED; IT IS INCULCATED.

VALUES ARE PASSED FROM PARENT TO CHILD.

THAT IS WHY HUMAN BEINGS HAVE THE LONGEST MATURATION PERIOD AND PERIOD OF DEPENDENCY -- SO THIS MATURING AND SOCIALIZATION CAN OCCUR.

SO THE FAMILY -- THE PARENT-CHILD RELATIONSHIP IS THE HARDWARE BY WHICH WE TRANSMIT VALUES.

IF WE LOOK ABOUT US, WE SEE THAT THE FAMILY -- THIS PRIMARY TRANSMITTER OF VALUES -- IS DISINTEGRATING.

DIVORCE IS AS COMMON AS MARRIAGE.

SINGLE-PARENT HOUSEHOLDS ARE SKY-ROCKETING.

ILLEGITIMACY RATES HAVE TRIPLED IN THE LAST 30 YEARS.

EVEN IN INTACT FAMILIES, PARENTS AREN'T ABLE TO SPEND AS MUCH TIME WITH THEIR CHILDREN.

THIS WEAKENING OF THE FAMILY COMES AT A TIME WHERE THE IMPORTANT BACKUP HARDWARE -- SCHOOLS AND OTHER SIMILAR PUBLIC INSTITUTIONS -- HAVE LOST THEIR MORAL AUTHORITY AND THUS THEIR ABILITY TO STEP IN. PUBLIC SCHOOLS NO LONGER OPERATE IN LOCO PARENTIS. SECULARIZATION HAS BEEN TAKEN TO THE POINT WHERE YOU CAN NO LONGER HAVE MORAL CONTENT IN PUBLIC INSTITUTIONS.

VALUE FREE EDUCATION MEANS VALUE FREE KIDS.

WE ARE RAPIDLY LOSING OUR ABILITY TO TRANSMIT VALUES.

AT THE SAME TIME THIS HAS BEEN GOING ON, OUR MORAL SOFTWARE HAS BEEN DETERIORATING.

FOR THE LAST 30 YEARS, WE HAVE SEEN A WITHERING OF RELIGIOUS FAITH.

MORAL RELATIVISM AND THE PURSUIT OF PLEASURE ARE THE ORDER OF THE DAY.

TRADITIONAL VALUES ARE THE TARGET OF RIDICULE.

THINGS WHICH NOT LONG AGO WERE IMMORALLY IMPERMISSIBLE ARE NOT ONLY TOLERATED, BUT ENCOURAGED. ABORTION, EUTHANASIA, SEXUAL LICENTIOUSNESS. WE LIVE IN AN ERA OF WHAT MIGHT BE CALLED "POP NIHILISM."

LIKE THE HUMAN BODY, SOCIETIES HAVE HAD A SELF-HEALING MECHANISM IN THE PAST. A HOMEOSTASIS -- A SELF-CORRECTIVE MECHANISM THAT GETS THINGS BACK ON COURSE IF SOCIETY GOES TOO FAR ADRIFT.

TODAY I WONDER WHETHER THESE SELF-CORRECTING MECHANISMS CAN STILL OPERATE.

HISTORICALLY, SOCIETIES HAVE GONE THROUGH GREAT AWAKENING CYCLES.

PERIODS OF GREAT LICENTIOUSNESS CAUSE A REACTION WHICH LEADS TO A RISE IN SPIRITUALITY AND MORAL RECOVERY.

THE OPINION OF DECENT PEOPLE REBELS AND RALLIES AGAINST THE OBVIOUS EXCESS. EXTERNAL TRUTHS ARE REDISCOVERED.

TODAY, I FEAR THAT THE POWER AND PERVASIVENESS OF OUR POPULAR CULTURE DROWNS OUT SCATTERED VOICES RAISED AGAINST THE TRAGEDY OF MODERN DECADENCE. TRADITIONAL MORALITY SUFFERS WHAT AMOUNTS TO SATURATION BOMBING AT THE HAND OF THE MASS MEDIA.

ANOTHER CORRECTIVE MECHANISM HAS BEEN THE COST SOCIETY PAYS WHEN IT DEVIATES FROM NATURAL LAW.

NATURAL LAW IS UTILITARIAN: TABOOS ARE THERE FOR A REASON. MORALLY BAD ACTIONS HAVE BAD PRACTICAL CONSEQUENCES FOR SOCIETY: H.I.V., VENEREAL DISEASE IS THE PRICE WE PAY, AMONG MANY OTHERS, FOR SEXUAL LICENSE.

SO, IN THE PAST, SOCIETIES HAVE BEEN DRIVEN BACK TO THEIR SENSES BY THE SHEER COSTS OF THEIR MISCONDUCT. HISTORICALLY, FOR EXAMPLE, SEXUAL PROMISCUITY HAS LEAD TO THE SPREAD OF VENEREAL DISEASE WHICH, IN TURN, HAS BROUGHT ON A PERIOD OF SEXUAL RESTRAINT.

BUT TODAY WE HAVE A NEW PHENOMENON.

A LARGE AND POWERFUL GOVERNMENT THAT NO LONGER SEES ITSELF AS A MORAL INSTITUTION, BUT AS A SECULAR ONE, TAKES ON THE ROLE OF ALLEVIATOR OF BAD CONSEQUENCES.

THE GOVERNMENT IS CALLED UPON TO REMOVE THE INCONVENIENCE AND COST OF MISCONDUCT.

SO THE REACTION TO H.I.V. AND ILLEGITIMACY IS NOT SEXUAL RESPONSIBILITY BUT HANDING OUT CONDOMS.

AND THE REACTION TO DRUG ADDICTION IS CLEAN NEEDLES.

WHILE WE THINK WE ARE SOLVING PROBLEMS WE ACTUALLY SUBSIDIZE THEM.

AND BY LOWERING THE COST OF MISCONDUCT, THE GOVERNMENT PERPETUATES IT.

WHEN WE FINALLY DO SEE THE HIGH COST, WILL IT BE TOO LATE TO RECOVER?

IT SEEMS TO ME THAT THE INSTITUTION THAT REMAINS CAPABLE OF HELPING SOCIETY REGAIN ITS MORAL COMPASS IS RELIGION.

I THINK THE CHURCH -- THE CLERGY AND THE LAITY -- HAVE TO SPEAK OUT WITH MORE CONFIDENCE AND AUTHORITY ABOUT WHAT IS RIGHT

AND WHAT IS WRONG -- EVEN IN THE FACE OF MOUNTING RIDICULE AND HOSTILITY.

A WALL STREET JOURNAL EDITORIAL RECENTLY SAID:

"THE UNITED STATES HAS A DRUG PROBLEM AND A HIGH-SCHOOL SEX PROBLEM AND A WELFARE PROBLEM AND AN AIDS PROBLEM AND A RAPE PROBLEM. NONE OF THIS WILL GO AWAY UNTIL MORE PEOPLE IN POSITIONS OF RESPONSIBILITY ARE WILLING TO COME FORWARD AND EXPLAIN, IN FRANKLY MORAL TERMS, THAT SOME OF THE THINGS THAT PEOPLE DO NOWADAYS ARE WRONG."

THAT IS WHY, I THINK THE BRENT SOCIETY IS SO IMPORTANT. THIS SOCIETY BEARS WITNESS TO THE FACT THAT RELIGION HAS A CENTRAL PART TO PLAY IN THE LIFE OF THIS NATION -- NOT JUST ON SUNDAY MORNING, BUT SEVEN DAYS A WEEK; AND NOT JUST IN CHURCH, BUT IN THE WORLD AT-LARGE.

BY HONORING THE LEGACY OF THE BRENT FAMILY, YOU SEND A CLEAR MESSAGE, THAT, IN THIS NATION, THE CATHOLIC LAITY HAVE IMPORTANT CONTRIBUTIONS TO MAKE IN THE SERVICE OF GOD AND THEIR FELLOW CITIZENS.

THANK YOU. MAY GOD BLESS.

REMARKS OF

**WILLIAM P. BARR
UNITED STATES ATTORNEY GENERAL**

**BEFORE THE
NATIONAL TROOPERS COALITION CONFERENCE
LINTHICUM, MARYLAND**

THURSDAY, MAY 14, 1992

IT IS A GREAT HONOR FOR ME TO HAVE THE OPPORTUNITY TO SPEAK TO THIS DISTINGUISHED CONFERENCE.

LAST NIGHT, I HAD THE HONOR OF PARTICIPATING IN A MEMORIAL CANDLELIGHT VIGIL FOR OUR LAW ENFORCEMENT OFFICERS ACROSS THE NATION.

ALL OF US KNOW THAT THE LIFE OF A LAW ENFORCEMENT OFFICER IS ONE OF DAILY SACRIFICE. YOU SACRIFICE TIME FROM YOUR FAMILIES, SACRIFICE PURSUIT OF FINANCIAL GAIN, SACRIFICE PERSONAL SAFETY, AND IN FAR TO MANY CASES, YOU ARE WILLING TO SACRIFICE YOUR LIFE. WHAT IS IT THAT UNDERLIES THIS DEVOTION OF LAW ENFORCEMENT?

I BELIEVE THAT THE UNPARALLELED DEVOTION OF MEN AND WOMEN IN LAW ENFORCEMENT IS ROOTED IN LAW ENFORCEMENT'S FUNDAMENTAL PURPOSE. POLICE WORK IS OFTEN DESCRIBED AS A THIN BLUE LINE, AND THIS IS CERTAINLY TRUE. BUT IT IS MORE THAN A DEFENSE.

IT IS THE FOUNDATION OF ALL SOCIAL ORDER. ALL HOPES, ALL DREAMS ARE DEPENDENT UPON THE ABILITY OF LAW ENFORCEMENT TO MAINTAIN THE RULE OF LAW.

THAT FOUNDATION OF LAW ENFORCEMENT IS WHAT I HAVE COME HERE TODAY TO SPEAK TO YOU ABOUT.

SINCE I BECAME ATTORNEY GENERAL, I HAVE BEEN STRESSING:

-- THAT THE FIRST DUTY OF GOVERNMENT IS TO PROTECT THE PHYSICAL SECURITY OF ITS CITIZENS;

-- THAT WE MUST STEP UP THE FIGHT AGAINST VIOLENT CRIME AND DO SO BY BUILDING A BROAD COALITION THAT ENGAGES ALL ELEMENTS OF THE COMMUNITY IN A WORKING PARTNERSHIP WITH LAW ENFORCEMENT; AND

-- THAT, IF WE ARE TO HAVE ANY CHANCE OF REBUILDING CRIME-PLAGUED URBAN COMMUNITIES, OUR SOCIAL PROGRAMS MUST GO HAND-IN-HAND WITH STRONG LAW ENFORCEMENT.

I BELIEVE THESE IDEAS FIT IN WELL WITH WHAT THE TROOPERS ARE TRYING TO ACCOMPLISH, AS YOU TRY TO KEEP OUR STREETS SAFE AND OUR NEIGHBORHOODS SECURE FROM VIOLENT CRIME.

IT IS ESPECIALLY APPROPRIATE THAT I AM SPEAKING HERE IN THE WAKE OF THE RIOTS IN LOS ANGELES.

THOSE RIOTS SERVE AS A STARK REMINDER OF THE RELATIONSHIP BETWEEN THE NEED FOR LAW AND ORDER, ON

THE ONE HAND, AND OUR DESIRE TO PURSUE PROGRAMS THAT PROMOTE ECONOMIC ADVANCEMENT AND SOCIAL REVITALIZATION ON THE OTHER.

I WANT TO FOCUS ON THAT RELATIONSHIP FOR A MOMENT.

IN PUBLIC DISCOURSE THESE DAYS, WE SOMETIMES HEAR PEOPLE DEBUNK THE NEED FOR A TOUGHER LAW ENFORCEMENT RESPONSE TO VIOLENT CRIME.

THEY FREQUENTLY DISMISS ANY RELIANCE ON POLICE, PROSECUTORS, AND PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED.

INSTEAD, THEY ARGUE THAT -- TO DEAL WITH VIOLENT CRIME -- WE SHOULD RELY PRINCIPALLY ON EDUCATION, HOUSING AND OTHER SOCIAL PROGRAMS DESIGNED TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

TODAY, I WANT TO MAKE THREE POINTS WHICH RELATE TO THIS TENSION BETWEEN LAW ENFORCEMENT RESPONSE AND A SOCIAL PROGRAMS' RESPONSE TO VIOLENT CRIME.

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT, THESE DAYS, WE CANNOT AFFORD TO DE-EMPHASIZE A TOUGH LAW ENFORCEMENT APPROACH.

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL REHABILITATION SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE.

I.

SO, FIRST LET ME TURN TO WHY I BELIEVE A TOUGH LAW ENFORCEMENT RESPONSE MUST CONTINUE TO BE A PRIORITY.

VIOLENT CRIME IN OUR COUNTRY IS AT INTOLERABLY HIGH LEVELS.

MURDERS AND RAPE ARE ON THE INCREASE.

GANG VIOLENCE IS SPREADING.

CRIME SEEMS TO BE BECOMING MORE VICIOUS AND WANTON.

I'M SURE MOST OF YOU HEARD ABOUT THE 19 YEAR OLD NICKNAMED "LITTLE MAN", WHILE DRIVING DOWN 295 IN

WASHINGTON, RANDOMLY POINTED HIS SEMI-AUTOMATIC AT A PASSING CAR AND KILLED A YOUNG MOTHER IN A HALE OF BULLETS.

HIS STATED REASON: HE JUST FELT LIKE KILLING SOMEBODY.

OF PARTICULAR CONCERN, JUVENILES ARE RESPONSIBLE FOR AN INCREASING PART OF THE VIOLENT CRIME WE SEE ABOUT US.

TODAY, FOR EXAMPLE, YOUTHS 18 AND UNDER ACCOUNT FOR OVER 21 PERCENT OF ALL ARRESTS FOR MURDER.

AND WE ARE SEEING A COLD-BLOODEDNESS, A REMORSELESSNESS, WE HAVE NEVER SEEN BEFORE.

INNER-CITY NEIGHBORHOODS ARE PARTICULARLY HARD HIT BY VIOLENT CRIME.

EVERYDAY WE SEE HOUSES GUARDED BY BARS -- BARS ON THE WINDOWS, BARS ON THE DOORS.

THIS REMINDS US THAT IT IS THE LAW-ABIDING CITIZENS WHO ARE BEING DEPRIVED OF THEIR FREEDOM -- FORCED TO LIVE BEHIND LOCKS AND BARS.

IT IS THE VIOLENT PREDATORS WHO SEEM TO BE AT LIBERTY -- FREE TO ROAM THE STREETS WITH IMPUNITY.

AND AS ALWAYS, IT IS THE POOR AND MINORITIES THAT ARE MOST VICTIMIZED.

LOW-INCOME HOUSEHOLDS SUFFER THE HIGHEST ECONOMIC LOSSES, AND BLACKS ARE DISPROPORTIONATELY THE VICTIMS OF MURDER, RAPE, AND AGGRAVATED ASSAULT.

THOSE WHO ARGUE THAT WE SHOULD DE-EMPHASIZE TOUGH LAW ENFORCEMENT MEASURES AND INSTEAD ADDRESS CRIME PRIMARILY THROUGH EDUCATION, HOUSING AND OTHER SOCIAL PROGRAMS ARE MISSING A BASIC POINT.

IN THIS PERVASIVE ATMOSPHERE OF VIOLENCE AND FEAR, EVEN THE BEST-DESIGNED SOCIAL PROGRAMS CANNOT TAKE ROOT.

THE PROBLEM TODAY IS THAT EFFORTS AT REVITALIZING OUR URBAN COMMUNITIES ARE BEING STRANGLING BY CRIME.

IT IS INCREASINGLY CLEAR THAT TOUGH LAW ENFORCEMENT MEASURES TO SUPPRESS VIOLENT CRIME ARE AN ABSOLUTE PRE-REQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

WHAT GOOD IS IT TO BUILD PUBLIC HOUSING ONLY TO SEE IT TAKEN OVER AND RUN BY DRUG TRAFFICKERS?

WHAT GOOD IS IT TO PUT A "MODEL SCHOOL" IN OUR INNER-CITY NEIGHBORHOOD ONLY TO SEE IT BECOME A BATTLEGROUNDS FOR GANGS?

IN MY VIEW, THE CRIME PROBLEM HAS REACHED THE POINT THAT ANY EFFORTS AT SOCIAL REHABILITATION WILL BE OVERWHELMED UNLESS COUPLED WITH AGGRESSIVE STEPS TO SUPPRESS VIOLENT CRIME.

IT WAS ONCE A SHIBBOLETH THAT "POVERTY CAUSES CRIME".

BUT -- TODAY -- WHAT IS CLEAR IS THAT "CRIME IS CAUSING POVERTY".

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN NEIGHBORHOODS TAKING JOBS AND OPPORTUNITIES WITH THEM.

POTENTIAL INVESTORS AND WOULD-BE EMPLOYERS ARE SCARED AWAY.

EXISTING OWNERS ARE DETERRED FROM MAKING IMPROVEMENTS.

AS PROPERTY VALUES GO DOWN, OWNERS DISINVEST.

IN SHORT, YOU CANNOT HAVE PROGRESS AMID CHAOS.

NO URBAN REDEVELOPMENT PROGRAM CAN ARREST THE DECLINE OF OUR INNER CITIES -- AND NO ANTI-POVERTY SOCIAL PROGRAMS CAN TAKE HOLD -- UNLESS THEY ARE COMBINED WITH TOUGH LAW ENFORCEMENT MEASURES TO REDUCE CRIME.

II.

AND THAT BRINGS ME TO MY SECOND POINT -- HOW DO WE GO ABOUT GETTING THESE CRIMINALS OFF THE STREET, AND MAKING OUR COMMUNITIES SAFER?

THOSE WHO PUT THEIR HOPE IN SOCIAL REHABILITATION TO REDUCE CRIME IN THE LONG TERM MUST ALSO REALIZE THAT -- IN THE SHORT TERM -- THERE ARE MANY CHRONIC, VIOLENT CRIMINALS WREAKING HAVOC AND DESTRUCTION IN OUR STREETS.

OUR EXPERIENCE SHOWS THAT THE ONLY WAY TO INCAPACITATE THESE VIOLENT CRIMINALS IS TO LOCK THEM UP. IF WE DON'T TAKE FIRM ACTION TO DEAL WITH THE PROBLEM OF VIOLENT CRIME TODAY, AS LAMENTABLE AS THAT MAY BE, THEN ALL OF OUR HOPES FOR PROGRESS TOMORROW

WILL BE DASHED.

I THINK OUR PRIORITY IN LAW ENFORCEMENT IS TO TARGET AND INCARCERATE THESE CHRONIC, REPEAT OFFENDERS. THIS WILL REQUIRE THREE THINGS:

IF WE ARE GOING TO MAKE ANY PROGRESS IN FIGHTING VIOLENT CRIME IN THE 1990'S, WE WILL HAVE TO DO THREE THINGS:

FIRST, WE ARE GOING TO HAVE TO CONTINUE TO MAKE SUBSTANTIAL INVESTMENTS IN OUR LAW ENFORCEMENT.

SECOND, WE ARE GOING TO HAVE TO CONTINUE TO PRESS FOR URGENTLY-NEEDED LEGAL REFORMS AT BOTH THE FEDERAL AND THE STATE LEVEL.

THIRD, WE ARE GOING TO HAVE TO BE AS AGGRESSIVE AS WE CAN BE IN USING OUR RESOURCES TO TARGET AND INCAPACITATE THE MOST VIOLENT OFFENDERS.

LET ME TOUCH BRIEFLY ON EACH OF THESE.

AS TO RESOURCES, EVEN IN THESE VERY TIGHT FISCAL TIMES, WE HAVE BEEN VERY FORTUNATE AT THE FEDERAL LEVEL TO HAVE A PRESIDENT WHO HAS MADE FIGHTING CRIME

A PRIORITY.

PRESIDENT BUSH HAS INCREASED THE DEPARTMENT OF JUSTICE'S BUDGET BY 60 PERCENT IN THE FIRST THREE YEARS OF HIS ADMINISTRATION, AND HE IS SEEKING ANOTHER 10 PERCENT THIS YEAR.

THIS HAS MEANT THOUSANDS OF NEW FEDERAL PROSECUTORS AND LAW ENFORCEMENT AGENTS AROUND THE COUNTRY.

MOST IMPORTANT OF ALL, DURING THE FIRST 3 YEARS, PRESIDENT BUSH HAS OBTAINED FUNDING TO INCREASE THE FEDERAL PRISON CAPACITY 118 PERCENT -- MORE THAN DOUBLING FEDERAL PRISON CAPACITY.

AND, IN THE WAR ON DRUGS, WE'VE GONE FROM \$4.5 BILLION IN THE BEGINNING OF THE ADMINISTRATION TO \$12.7 BILLION THIS YEAR.

BUT, IT IS AT THE STATE LEVEL WHERE THE MAIN BATTLE IS BEING FOUGHT. IF WE ARE GOING TO MAKE ANY HEADWAY AGAINST VIOLENT CRIME, THIS SAME KIND OF COMMITMENT TO RESOURCES IS GOING TO HAVE TO BE MIRRORED AT THE STATE LEVEL.

NOW IS NOT THE TIME TO SCRIMP ON RESOURCES FOR LAW ENFORCEMENT. AND NOW IS NOT THE TIME FOR CUTBACKS.

SECONDLY, IN ADDITION TO RESOURCES, WE'RE STILL IN DIRE NEED OF LEGAL REFORM IN THIS COUNTRY.

WE TOUGHENED UP THE FEDERAL SYSTEM CONSIDERABLY DURING THE 80'S. WE GOT STRONG PRE-TRIAL DETENTION; WE ABOLISHED PAROLE; WE GOT TOUGH SENTENCES.

RIGHT NOW, THE FEDERAL SYSTEM IS PROBABLY THE TOUGHEST IN THE NATION. BUT MORE HAS TO BE DONE.

YOU UNDERSTAND THIS. THE TROOPERS HAVE BEEN STRONG SUPPORTERS OF ENHANCING LAW ENFORCEMENT THROUGH THE PRESIDENT'S CRIME BILL, AND THAT SUPPORT IS VITAL TO US.

AS YOU KNOW, THE PRESIDENT'S CRIME BILL WILL CARRY OUT THIS UNFINISHED AGENDA AT THE FEDERAL LEVEL. HE'S SEEKING THE DEATH PENALTY. HE'S SEEKING STRICTER PENALTIES FOR FELONS WHO USE FIREARMS IN THEIR OFFENSES. HE'S SEEKING A BROADENING OF THE GOOD FAITH EXCEPTION TO THE EXCLUSIONARY RULE, SO THAT CRIMINALS DO NOT GO FREE DUE TO INADVERTENT ERRORS BY THE POLICE. AND HE'S SEEKING, MOST IMPORTANT OF ALL, AN

END TO HABEAS CORPUS ABUSE.

WE RECENTLY SAW A TEXTBOOK EXAMPLE OF THE ABUSE OF HABEAS CORPUS IN THE CALIFORNIA CASE OF ROBERT ALTON HARRIS -- THE MURDERER OF TWO TEENAGE BOYS -- WHO WAS ABLE TO DELAY HIS PUNISHMENT FOR 11 YEARS BY FILING A SERIES OF 16 STATE AND FEDERAL PETITIONS.

THE ABUSE OF THE FEDERAL WRIT OF HABEAS CORPUS IS UNDERMINING THE INTEGRITY OF THE STATE CRIMINAL JUSTICE SYSTEM. IT HAS BECOME AN AVENUE FOR THE ENDLESS REOPENING OF CASES AND THE RAISING OF FRIVOLOUS CLAIMS THAT HAVE NOTHING TO DO WITH GUILT OR INNOCENCE.

EVERY YEAR THE VICTIMS' FAMILIES HAVE TO WITNESS THE SPECTACLE OF THIS REOPENING OF CASES. JUSTICE NEVER COMES TO AN END. BECAUSE OF THIS ABUSE, THERE IS NO FINALITY OF JUDGEMENT. WE HAVE TO PUT A STOP TO IT. THAT IS WHY THE PRESIDENT'S CRIME BILL IS SO IMPORTANT.

UNFORTUNATELY, THERE IS AN ALTERNATIVE CRIME BILL THAT IS A MAJOR STEP BACKWARD FOR LAW ENFORCEMENT. WHILE IT HOLDS OUT AN EMPTY PROMISE OF MORE MONEY -- MONEY THAT IS SIMPLY NOT THERE IN THE FEDERAL BUDGET

THIS YEAR -- IT ACTUALLY ROLLS THE CLOCK BACK TO THE WARREN COURT. TWENTY CASES THAT WERE DECIDED UNDER THE BURGER AND REHNQUIST COURTS WOULD BE OVERTURNED, AND THE CLOCK WOULD BE TURNED BACK TO THE RULE OF THE WARREN COURT.

THE PRESIDENT HAS PLEDGED TO VETO THAT BILL FROM THE PAST.

BUT REFORM ON THE FEDERAL LEVEL CAN ONLY HAVE A LIMITED IMPACT ON VIOLENT STREET CRIME. WE STILL NEED LEGAL REFORM ON THE STATE LEVEL.

IF THE 80'S WERE THE TIME WHERE WE REFORMED THE FEDERAL SYSTEM, THE 90'S HAVE TO BE A TIME WHERE WE REFORM THE STATE SYSTEMS.

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SUCCESSFUL.

III.

AND THAT BRINGS ME TO MY THIRD AND FINAL POINT.

OVER THE LAST TWENTY-FIVE YEARS WE HAVE POURED TRILLIONS OF DOLLARS INTO SOCIAL WELFARE PROGRAMS.

HAVE WE GOTTEN ALL WE SHOULD FROM THIS INVESTMENT?

WHILE SOME PROGRAMS -- SUCH AS HEAD START -- HAVE PROVEN WORTHWHILE, I THINK THAT ANY FAIR-MINDED OBSERVER WOULD HAVE TO SAY THAT THE OVERALL RESULTS OF THIS TWENTY-FIVE YEAR "WAR ON POVERTY" HAVE BEEN DISAPPOINTING.

IN MY VIEW, WE MUST BE SMARTER ABOUT HOW WE SPEND ON SOCIAL PROGRAMS.

IN THIS REGARD, FROM THE BEGINNING OF HIS ADMINISTRATION, THE PRESIDENT HAS BEEN PUSHING A REFORM AGENDA THAT SEEKS TO AVOID THE MISTAKES OF THE PAST, AND TO PROMOTE REAL OPPORTUNITY.

-- THE PRESIDENT BELIEVES WE MUST PROVIDE

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AND FINALLY, THE BROAD PANOPLY OF FEDERAL, STATE, AND LOCAL GOVERNMENT RESOURCES, AND -- AT LEAST AS IMPORTANTLY -- PRIVATE SECTOR RESOURCES ARE BROUGHT TO BEAR AND FOCUSED ON THE COMMUNITY TO "SEED IN" LONG TERM STABILITY AND GROWTH.

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THANK YOU VERY MUCH.

#

REMARKS OF

**WILLIAM P. BARR
UNITED STATES ATTORNEY GENERAL**

**BEFORE THE
NATIONAL TROOPERS COALITION CONFERENCE
LINTHICUM, MARYLAND**

THURSDAY, MAY 14, 1992

IT IS A GREAT HONOR FOR ME TO HAVE THE OPPORTUNITY TO SPEAK TO THIS DISTINGUISHED CONFERENCE.

LAST NIGHT, I HAD THE HONOR OF PARTICIPATING IN A MEMORIAL CANDLELIGHT VIGIL FOR OUR LAW ENFORCEMENT OFFICERS ACROSS THE NATION.

ALL OF US KNOW THAT THE LIFE OF A LAW ENFORCEMENT OFFICER IS ONE OF DAILY SACRIFICE. YOU SACRIFICE TIME FROM YOUR FAMILIES, SACRIFICE PURSUIT OF FINANCIAL GAIN, SACRIFICE PERSONAL SAFETY, AND IN FAR TO MANY CASES, YOU ARE WILLING TO SACRIFICE YOUR LIFE. WHAT IS IT THAT UNDERLIES THIS DEVOTION OF LAW ENFORCEMENT?

I BELIEVE THAT THE UNPARALLELED DEVOTION OF MEN AND WOMEN IN LAW ENFORCEMENT IS ROOTED IN LAW ENFORCEMENT'S FUNDAMENTAL PURPOSE. POLICE WORK IS OFTEN DESCRIBED AS A THIN BLUE LINE, AND THIS IS CERTAINLY TRUE. BUT IT IS MORE THAN A DEFENSE.

IT IS THE FOUNDATION OF ALL SOCIAL ORDER. ALL HOPES, ALL DREAMS ARE DEPENDENT UPON THE ABILITY OF LAW ENFORCEMENT TO MAINTAIN THE RULE OF LAW.

THAT FOUNDATION OF LAW ENFORCEMENT IS WHAT I HAVE COME HERE TODAY TO SPEAK TO YOU ABOUT.

SINCE I BECAME ATTORNEY GENERAL, I HAVE BEEN STRESSING:

-- THAT THE FIRST DUTY OF GOVERNMENT IS TO PROTECT THE PHYSICAL SECURITY OF ITS CITIZENS;

-- THAT WE MUST STEP UP THE FIGHT AGAINST VIOLENT CRIME AND DO SO BY BUILDING A BROAD COALITION THAT ENGAGES ALL ELEMENTS OF THE COMMUNITY IN A WORKING PARTNERSHIP WITH LAW ENFORCEMENT; AND

-- THAT, IF WE ARE TO HAVE ANY CHANCE OF REBUILDING CRIME-PLAGUED URBAN COMMUNITIES, OUR SOCIAL PROGRAMS MUST GO HAND-IN-HAND WITH STRONG LAW ENFORCEMENT.

I BELIEVE THESE IDEAS FIT IN WELL WITH WHAT THE TROOPERS ARE TRYING TO ACCOMPLISH, AS YOU TRY TO KEEP OUR STREETS SAFE AND OUR NEIGHBORHOODS SECURE FROM VIOLENT CRIME.

IT IS ESPECIALLY APPROPRIATE THAT I AM SPEAKING HERE IN THE WAKE OF THE RIOTS IN LOS ANGELES.

THOSE RIOTS SERVE AS A STARK REMINDER OF THE RELATIONSHIP BETWEEN THE NEED FOR LAW AND ORDER, ON

THE ONE HAND, AND OUR DESIRE TO PURSUE PROGRAMS THAT PROMOTE ECONOMIC ADVANCEMENT AND SOCIAL REVITALIZATION ON THE OTHER.

I WANT TO FOCUS ON THAT RELATIONSHIP FOR A MOMENT.

IN PUBLIC DISCOURSE THESE DAYS, WE SOMETIMES HEAR PEOPLE DEBUNK THE NEED FOR A TOUGHER LAW ENFORCEMENT RESPONSE TO VIOLENT CRIME.

THEY FREQUENTLY DISMISS ANY RELIANCE ON POLICE, PROSECUTORS, AND PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED.

INSTEAD, THEY ARGUE THAT -- TO DEAL WITH VIOLENT CRIME -- WE SHOULD RELY PRINCIPALLY ON EDUCATION, HOUSING AND OTHER SOCIAL PROGRAMS DESIGNED TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

TODAY, I WANT TO MAKE THREE POINTS WHICH RELATE TO THIS TENSION BETWEEN LAW ENFORCEMENT RESPONSE AND A SOCIAL PROGRAMS' RESPONSE TO VIOLENT CRIME.

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT, THESE DAYS, WE CANNOT AFFORD TO DE-EMPHASIZE A TOUGH LAW ENFORCEMENT APPROACH.

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL REHABILITATION SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE.

I.

SO, FIRST LET ME TURN TO WHY I BELIEVE A TOUGH LAW ENFORCEMENT RESPONSE MUST CONTINUE TO BE A PRIORITY.

VIOLENT CRIME IN OUR COUNTRY IS AT INTOLERABLY HIGH LEVELS.

MURDERS AND RAPE ARE ON THE INCREASE.

GANG VIOLENCE IS SPREADING.

CRIME SEEMS TO BE BECOMING MORE VICIOUS AND WANTON.

I'M SURE MOST OF YOU HEARD ABOUT THE 19 YEAR OLD NICKNAMED "LITTLE MAN", WHILE DRIVING DOWN 295 IN

WASHINGTON, RANDOMLY POINTED HIS SEMI-AUTOMATIC AT A PASSING CAR AND KILLED A YOUNG MOTHER IN A HALE OF BULLETS.

HIS STATED REASON: HE JUST FELT LIKE KILLING SOMEBODY.

OF PARTICULAR CONCERN, JUVENILES ARE RESPONSIBLE FOR AN INCREASING PART OF THE VIOLENT CRIME WE SEE ABOUT US.

TODAY, FOR EXAMPLE, YOUTHS 18 AND UNDER ACCOUNT FOR OVER 21 PERCENT OF ALL ARRESTS FOR MURDER.

AND WE ARE SEEING A COLD-BLOODEDNESS, A REMORSELESSNESS, WE HAVE NEVER SEEN BEFORE.

INNER-CITY NEIGHBORHOODS ARE PARTICULARLY HARD HIT BY VIOLENT CRIME.

EVERYDAY WE SEE HOUSES GUARDED BY BARS -- BARS ON THE WINDOWS, BARS ON THE DOORS.

THIS REMINDS US THAT IT IS THE LAW-ABIDING CITIZENS WHO ARE BEING DEPRIVED OF THEIR FREEDOM -- FORCED TO LIVE BEHIND LOCKS AND BARS.

IT IS THE VIOLENT PREDATORS WHO SEEM TO BE AT LIBERTY -- FREE TO ROAM THE STREETS WITH IMPUNITY.

AND AS ALWAYS, IT IS THE POOR AND MINORITIES THAT ARE MOST VICTIMIZED.

LOW-INCOME HOUSEHOLDS SUFFER THE HIGHEST ECONOMIC LOSSES, AND BLACKS ARE DISPROPORTIONATELY THE VICTIMS OF MURDER, RAPE, AND AGGRAVATED ASSAULT.

THOSE WHO ARGUE THAT WE SHOULD DE-EMPHASIZE TOUGH LAW ENFORCEMENT MEASURES AND INSTEAD ADDRESS CRIME PRIMARILY THROUGH EDUCATION, HOUSING AND OTHER SOCIAL PROGRAMS ARE MISSING A BASIC POINT.

IN THIS PERVASIVE ATMOSPHERE OF VIOLENCE AND FEAR, EVEN THE BEST-DESIGNED SOCIAL PROGRAMS CANNOT TAKE ROOT.

THE PROBLEM TODAY IS THAT EFFORTS AT REVITALIZING OUR URBAN COMMUNITIES ARE BEING STRANGLING BY CRIME.

IT IS INCREASINGLY CLEAR THAT TOUGH LAW ENFORCEMENT MEASURES TO SUPPRESS VIOLENT CRIME ARE AN ABSOLUTE PRE-REQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

WHAT GOOD IS IT TO BUILD PUBLIC HOUSING ONLY TO SEE IT TAKEN OVER AND RUN BY DRUG TRAFFICKERS?

WHAT GOOD IS IT TO PUT A "MODEL SCHOOL" IN OUR INNER-CITY NEIGHBORHOOD ONLY TO SEE IT BECOME A BATTLEGROUNDS FOR GANGS?

IN MY VIEW, THE CRIME PROBLEM HAS REACHED THE POINT THAT ANY EFFORTS AT SOCIAL REHABILITATION WILL BE OVERWHELMED UNLESS COUPLED WITH AGGRESSIVE STEPS TO SUPPRESS VIOLENT CRIME.

IT WAS ONCE A SHIBBOLETH THAT "POVERTY CAUSES CRIME".

BUT -- TODAY -- WHAT IS CLEAR IS THAT "CRIME IS CAUSING POVERTY".

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN NEIGHBORHOODS TAKING JOBS AND OPPORTUNITIES WITH THEM.

POTENTIAL INVESTORS AND WOULD-BE EMPLOYERS ARE SCARED AWAY.

EXISTING OWNERS ARE DETERRED FROM MAKING IMPROVEMENTS.

AS PROPERTY VALUES GO DOWN, OWNERS DISINVEST.

IN SHORT, YOU CANNOT HAVE PROGRESS AMID CHAOS.

NO URBAN REDEVELOPMENT PROGRAM CAN ARREST THE DECLINE OF OUR INNER CITIES -- AND NO ANTI-POVERTY SOCIAL PROGRAMS CAN TAKE HOLD -- UNLESS THEY ARE COMBINED WITH TOUGH LAW ENFORCEMENT MEASURES TO REDUCE CRIME.

II.

AND THAT BRINGS ME TO MY SECOND POINT -- HOW DO WE GO ABOUT GETTING THESE CRIMINALS OFF THE STREET, AND MAKING OUR COMMUNITIES SAFER?

THOSE WHO PUT THEIR HOPE IN SOCIAL REHABILITATION TO REDUCE CRIME IN THE LONG TERM MUST ALSO REALIZE THAT -- IN THE SHORT TERM -- THERE ARE MANY CHRONIC, VIOLENT CRIMINALS WREAKING HAVOC AND DESTRUCTION IN OUR STREETS.

OUR EXPERIENCE SHOWS THAT THE ONLY WAY TO INCAPACITATE THESE VIOLENT CRIMINALS IS TO LOCK THEM UP. IF WE DON'T TAKE FIRM ACTION TO DEAL WITH THE PROBLEM OF VIOLENT CRIME TODAY, AS LAMENTABLE AS THAT MAY BE, THEN ALL OF OUR HOPES FOR PROGRESS TOMORROW

WILL BE DASHED.

I THINK OUR PRIORITY IN LAW ENFORCEMENT IS TO TARGET AND INCARCERATE THESE CHRONIC, REPEAT OFFENDERS. THIS WILL REQUIRE THREE THINGS:

IF WE ARE GOING TO MAKE ANY PROGRESS IN FIGHTING VIOLENT CRIME IN THE 1990'S, WE WILL HAVE TO DO THREE THINGS:

FIRST, WE ARE GOING TO HAVE TO CONTINUE TO MAKE SUBSTANTIAL INVESTMENTS IN OUR LAW ENFORCEMENT.

SECOND, WE ARE GOING TO HAVE TO CONTINUE TO PRESS FOR URGENTLY-NEEDED LEGAL REFORMS AT BOTH THE FEDERAL AND THE STATE LEVEL.

THIRD, WE ARE GOING TO HAVE TO BE AS AGGRESSIVE AS WE CAN BE IN USING OUR RESOURCES TO TARGET AND INCAPACITATE THE MOST VIOLENT OFFENDERS.

LET ME TOUCH BRIEFLY ON EACH OF THESE.

AS TO RESOURCES, EVEN IN THESE VERY TIGHT FISCAL TIMES, WE HAVE BEEN VERY FORTUNATE AT THE FEDERAL LEVEL TO HAVE A PRESIDENT WHO HAS MADE FIGHTING CRIME

A PRIORITY.

PRESIDENT BUSH HAS INCREASED THE DEPARTMENT OF JUSTICE'S BUDGET BY 60 PERCENT IN THE FIRST THREE YEARS OF HIS ADMINISTRATION, AND HE IS SEEKING ANOTHER 10 PERCENT THIS YEAR.

THIS HAS MEANT THOUSANDS OF NEW FEDERAL PROSECUTORS AND LAW ENFORCEMENT AGENTS AROUND THE COUNTRY.

MOST IMPORTANT OF ALL, DURING THE FIRST 3 YEARS, PRESIDENT BUSH HAS OBTAINED FUNDING TO INCREASE THE FEDERAL PRISON CAPACITY 118 PERCENT -- MORE THAN DOUBLING FEDERAL PRISON CAPACITY.

AND, IN THE WAR ON DRUGS, WE'VE GONE FROM \$4.5 BILLION IN THE BEGINNING OF THE ADMINISTRATION TO \$12.7 BILLION THIS YEAR.

BUT, IT IS AT THE STATE LEVEL WHERE THE MAIN BATTLE IS BEING FOUGHT. IF WE ARE GOING TO MAKE ANY HEADWAY AGAINST VIOLENT CRIME, THIS SAME KIND OF COMMITMENT TO RESOURCES IS GOING TO HAVE TO BE MIRRORED AT THE STATE LEVEL.

NOW IS NOT THE TIME TO SCRIMP ON RESOURCES FOR LAW ENFORCEMENT. AND NOW IS NOT THE TIME FOR CUTBACKS.

SECONDLY, IN ADDITION TO RESOURCES, WE'RE STILL IN DIRE NEED OF LEGAL REFORM IN THIS COUNTRY.

WE TOUGHENED UP THE FEDERAL SYSTEM CONSIDERABLY DURING THE 80'S. WE GOT STRONG PRE-TRIAL DETENTION; WE ABOLISHED PAROLE; WE GOT TOUGH SENTENCES.

RIGHT NOW, THE FEDERAL SYSTEM IS PROBABLY THE TOUGHEST IN THE NATION. BUT MORE HAS TO BE DONE.

YOU UNDERSTAND THIS. THE TROOPERS HAVE BEEN STRONG SUPPORTERS OF ENHANCING LAW ENFORCEMENT THROUGH THE PRESIDENT'S CRIME BILL, AND THAT SUPPORT IS VITAL TO US.

AS YOU KNOW, THE PRESIDENT'S CRIME BILL WILL CARRY OUT THIS UNFINISHED AGENDA AT THE FEDERAL LEVEL. HE'S SEEKING THE DEATH PENALTY. HE'S SEEKING STRICTER PENALTIES FOR FELONS WHO USE FIREARMS IN THEIR OFFENSES. HE'S SEEKING A BROADENING OF THE GOOD FAITH EXCEPTION TO THE EXCLUSIONARY RULE, SO THAT CRIMINALS DO NOT GO FREE DUE TO INADVERTENT ERRORS BY THE POLICE. AND HE'S SEEKING, MOST IMPORTANT OF ALL, AN

END TO HABEAS CORPUS ABUSE.

WE RECENTLY SAW A TEXTBOOK EXAMPLE OF THE ABUSE OF HABEAS CORPUS IN THE CALIFORNIA CASE OF ROBERT ALTON HARRIS -- THE MURDERER OF TWO TEENAGE BOYS -- WHO WAS ABLE TO DELAY HIS PUNISHMENT FOR 11 YEARS BY FILING A SERIES OF 16 STATE AND FEDERAL PETITIONS.

THE ABUSE OF THE FEDERAL WRIT OF HABEAS CORPUS IS UNDERMINING THE INTEGRITY OF THE STATE CRIMINAL JUSTICE SYSTEM. IT HAS BECOME AN AVENUE FOR THE ENDLESS REOPENING OF CASES AND THE RAISING OF FRIVOLOUS CLAIMS THAT HAVE NOTHING TO DO WITH GUILT OR INNOCENCE.

EVERY YEAR THE VICTIMS' FAMILIES HAVE TO WITNESS THE SPECTACLE OF THIS REOPENING OF CASES. JUSTICE NEVER COMES TO AN END. BECAUSE OF THIS ABUSE, THERE IS NO FINALITY OF JUDGEMENT. WE HAVE TO PUT A STOP TO IT. THAT IS WHY THE PRESIDENT'S CRIME BILL IS SO IMPORTANT.

UNFORTUNATELY, THERE IS AN ALTERNATIVE CRIME BILL THAT IS A MAJOR STEP BACKWARD FOR LAW ENFORCEMENT. WHILE IT HOLDS OUT AN EMPTY PROMISE OF MORE MONEY -- MONEY THAT IS SIMPLY NOT THERE IN THE FEDERAL BUDGET

THIS YEAR -- IT ACTUALLY ROLLS THE CLOCK BACK TO THE WARREN COURT. TWENTY CASES THAT WERE DECIDED UNDER THE BURGER AND REHNQUIST COURTS WOULD BE OVERTURNED, AND THE CLOCK WOULD BE TURNED BACK TO THE RULE OF THE WARREN COURT.

THE PRESIDENT HAS PLEDGED TO VETO THAT BILL FROM THE PAST.

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DEPUTY ATTORNEY GENERAL AND ASSOCIATE ATTORNEY GENERAL SWORN INTO OFFICE

PR Newswire

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Section: State and Regional News

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Body

The U.S. Attorney General, William P. Barr, today formally swore into office Deputy Attorney General George J. Terwilliger, III, and Associate Attorney General Wayne A. Budd.

At the installation ceremony in the Attorney General's office, Barr called Terwilliger and Budd "great professionals and men of high integrity." He added, "The Department of Justice will be well-served, and so will the American people."

Associate Judge Robert M. Scott of the Superior Court of the District of Columbia administered the oath of office and J. Donald Monan, S.J., president of Boston college, offered the invocation.

Since coming to the Department of Justice in June of 1990, Terwilliger has served as Principal Associate Deputy Attorney General and Acting Deputy Attorney General. From 1986 to 1991, Terwilliger served as the presidentially appointed U.S. Attorney for the District of Vermont and, while there, was recognized for running an outstanding law-enforcement program. Prior to that, Terwilliger was an Assistant U.S. Attorney in the District of Vermont from 1981-1986, and an Assistant U.S. Attorney for the District of Columbia from 1978 to 1981.

Terwilliger, in his capacity as Deputy Attorney General, oversees all the operations of the Justice Department.

Budd, a native of Springfield, Mass., was nominated by the president in March of this year to the post of Associate Attorney General. Most recently, Budd served as the U.S. Attorney for the District of Massachusetts where he was the highest ranking federal law enforcement official in the Commonwealth. Prior to that 1989 appointment, Budd was a senior partner at the Boston law firm of Budd, Wiley & Richlin. In 1979, when elected to serve as president of Massachusetts Bar Association, Budd became the first black person in the nation's history to lead a state bar association.

In the capacity of Associate Attorney General, Budd has direct supervision of several litigating divisions within the department, including civil issues, civil rights, environmental law, tax, antitrust, and the Bureau of Prisons.

CONTACT: The Attorney General's office, 202-514-2007

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE

GREATER DALLAS CRIME COMMISSION LUNCHEON
DALLAS, TEXAS

MAY 8, 1992

IT IS A GREAT HONOR FOR ME TO HAVE THE OPPORTUNITY, ONCE AGAIN, TO SPEAK TO THIS DISTINGUISHED COMMISSION.

THE DALLAS CRIME COMMISSION IS RECOGNIZED AS ONE OF THE NATION'S LEADING FORUMS ON CRIMINAL JUSTICE.

I WANTED ESPECIALLY TO BE HERE TODAY SO THAT I COULD EXPRESS IN A TANGIBLE WAY MY ADMIRATION AND SUPPORT FOR THE MUSCLE MAYORS OF TEXAS.

THIS UNPRECEDENTED BI-PARTISAN COALITION -- THE MAYORS OF EIGHT MAJOR CITIES IN THIS STATE -- IS DOING AN OUTSTANDING JOB IN LEADING THE FIGHT FOR STRONGER LAW ENFORCEMENT AND SAFER COMMUNITIES.

SINCE I BECAME ATTORNEY GENERAL, I HAVE BEEN STRESSING:

-- THAT THE FIRST DUTY OF GOVERNMENT IS TO PROTECT THE PHYSICAL SECURITY OF ITS CITIZENS;

-- THAT WE MUST STEP UP THE FIGHT AGAINST VIOLENT CRIME AND DO SO BY BUILDING A BROAD COALITION THAT ENGAGES ALL ELEMENTS OF THE COMMUNITY IN A WORKING PARTNERSHIP WITH LAW ENFORCEMENT; AND

-- THAT, IF WE ARE TO HAVE ANY CHANCE OF REBUILDING CRIME-PLAGUED URBAN COMMUNITIES, OUR SOCIAL PROGRAMS MUST GO HAND-IN-

HAND WITH STRONG LAW ENFORCEMENT.

I BELIEVE THESE IDEAS FIT IN WELL WITH WHAT THE MUSCLE MAYORS ARE TRYING TO ACCOMPLISH.

I WANT TO ALLY MYSELF WITH THEIR EFFORTS AND DO WHAT I CAN TO HELP.

THE MAYORS ARE STARTING AN EFFORT -- IN CONJUNCTION WITH THEIR CITY COUNCILS AND COMMUNITY LEADERS -- TO DEVELOP COMPREHENSIVE ANTI-CRIME PLANS FOR EACH OF THEIR CITIES.

I AM PLEASED TO ANNOUNCE THAT THE DEPARTMENT OF JUSTICE WILL BE APPLYING GRANT MONIES OF \$480,000 OVER THE NEXT TWO YEARS TO ASSIST THE MUSCLE MAYORS IN THESE COMMUNITY-WIDE PLANNING EFFORTS.

TEXAS HAS THE OPPORTUNITY THROUGH THEIR INITIATIVE TO CREATE THE NEIGHBORHOOD COALITIONS, THAT IN PARTNERSHIP WITH LAW ENFORCEMENT CAN PROVIDE ORDER, SAFETY AND A FERTILE GROUND TO DEVELOP AND ENRICH HER URBAN CENTERS. IF SUCCESSFUL, THESE EFFORTS COULD BE A MODEL FOR AMERICA.

IT IS ESPECIALLY APPROPRIATE THAT I AM SPEAKING HERE IN THE WAKE OF THE RIOTS IN LOS ANGELES.

THOSE RIOTS SERVE AS A STARK REMINDER OF THE RELATIONSHIP BETWEEN THE NEED FOR LAW AND ORDER, ON THE ONE HAND, AND OUR DESIRE TO PURSUE PROGRAMS FOR SOCIAL REHABILITATION, ON THE OTHER.

I WANT TO FOCUS ON THAT RELATIONSHIP IN MY REMARKS TODAY.

IN PUBLIC DISCOURSE THESE DAYS, WE FREQUENTLY HEAR PEOPLE DEBUNK THE NEED FOR A TOUGHER LAW ENFORCEMENT RESPONSE TO VIOLENT CRIME.

THEY FREQUENTLY DISMISS ANY RELIANCE ON POLICE, PROSECUTORS, AND PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED.

INSTEAD, THEY ARGUE THAT -- TO DEAL WITH VIOLENT CRIME -- WE SHOULD RELY PRINCIPALLY ON EDUCATION, HOUSING AND OTHER SOCIAL PROGRAMS DESIGNED TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

TODAY, I WANT TO MAKE THREE POINTS WHICH RELATE TO THIS TENSION BETWEEN LAW ENFORCEMENT RESPONSE AND A SOCIAL PROGRAMS' RESPONSE TO VIOLENT CRIME.

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT, THESE DAYS, WE MUST GIVE PRIORITY TO A TOUGH LAW ENFORCEMENT APPROACH.

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL REHABILITATION SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE.

I.

SO, FIRST LET ME TURN TO WHY I BELIEVE A TOUGH LAW ENFORCEMENT RESPONSE MUST BE PARAMOUNT.

VIOLENT CRIME IN OUR COUNTRY IS AT INTOLERABLY HIGH LEVELS.

MURDERS AND RAPE ARE ON THE INCREASE.

GANG VIOLENCE IS SPREADING.

CRIME SEEMS TO BE BECOMING MORE VICIOUS AND WANTON.

RECENTLY IN WASHINGTON A 19 YEAR OLD NICKNAMED "LITTLE MAN", WHILE DRIVING DOWN THE HIGHWAY, RANDOMLY POINTED HIS SEMI-AUTOMATIC AT A PASSING CAR AND KILLED A YOUNG MOTHER IN A HALE OF BULLETS.

HIS STATED REASON: HE JUST FELT LIKE KILLING SOMEBODY.

OF PARTICULAR CONCERN, JUVENILES ARE RESPONSIBLE FOR AN INCREASING PART OF THE VIOLENT CRIME WE SEE ABOUT US.

TODAY, FOR EXAMPLE, YOUTHS 18 AND UNDER ACCOUNT FOR OVER 21 PERCENT OF ALL ARRESTS FOR MURDER.

AND WE ARE SEEING A COLD-BLOODEDNESS, A REMORSELESSNESS, WE HAVE NEVER SEEN BEFORE.

INNER-CITY NEIGHBORHOODS ARE PARTICULARLY HARD HIT BY VIOLENT CRIME.

A FEW WEEKS AGO I WAS IN FORT WORTH WITH MAYOR GRANGER TOURING THE POLYTECHNIC NEIGHBORHOOD -- WHICH WE HAD JUST SELECTED AS ONE OF OUR INITIAL WEED AND SEED PROJECT AREAS.

WE SAW ROW UPON ROW OF HOUSES SURROUNDED BY BARS -- BARS ON THE WINDOWS; BARS AROUND THE PORCHES; BARS ON THE DOORS.

NEIGHBORHOODS LIKE THIS ARE UNDER SIEGE.

IT IS THE LAW-ABIDING CITIZENS WHO ARE BEING DEPRIVED OF THEIR FREEDOM -- FORCED TO LIVE BEHIND LOCKS AND BARS -- HELD PRISONERS IN THEIR OWN HOMES.

IT IS THE VIOLENT PREDATORS WHO SEEM TO BE AT LIBERTY -- FREE TO ROAM THE STREETS WITH IMPUNITY -- KILLING, TAKING WHAT THEY WISH, AND TERRORIZING AT WILL.

IT IS THE POOR AND MINORITIES THAT ARE MOST VICTIMIZED BY CRIME.

LOW-INCOME HOUSEHOLDS SUFFER THE HIGHEST ECONOMIC LOSSES, AND BLACKS ARE DISPROPORTIONATELY THE VICTIMS OF MURDER, RAPE, AND AGGRAVATED ASSAULT.

THOSE WHO ARGUE THAT WE SHOULD DE-EMPHASIZE TOUGH LAW ENFORCEMENT MEASURES AND INSTEAD ADDRESS CRIME PRIMARILY THROUGH EDUCATION, HOUSING AND OTHER SOCIAL PROGRAMS ARE MISSING A BASIC POINT.

IN THIS PERVASIVE ATMOSPHERE OF VIOLENCE AND FEAR, EVEN THE BEST-DESIGNED SOCIAL PROGRAMS CANNOT TAKE ROOT.

THE PROBLEM TODAY IS THAT EFFORTS AT REVITALIZING OUR URBAN COMMUNITIES ARE BEING STRANGLERED BY CRIME.

IT IS INCREASINGLY CLEAR THAT TOUGH LAW ENFORCEMENT MEASURES TO SUPPRESS VIOLENT CRIME ARE AN ABSOLUTE PRE-REQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

WHAT GOOD IS IT TO BUILD PUBLIC HOUSING ONLY TO SEE IT TAKEN OVER AND RUN BY DRUG TRAFFICKERS?

WHAT GOOD IS IT TO PUT A "MODEL SCHOOL" IN OUR INNER-CITY NEIGHBORHOOD ONLY TO SEE IT BECOME A BATTLEGROUND FOR GANGS?

IN THE CABRINI GREEN HOUSING PROJECT IN CHICAGO, A NUMBER OF EDUCATIONAL PROGRAMS ARE UNDERWAY. UNFORTUNATELY, THE CRIME PROBLEM THERE IS SO BAD THAT PARENTS ARE HAVING THEIR CHILDREN SLEEP IN BATHTUBS -- ESSENTIALLY ARMORED CRIBS -- TO PROTECT THEM FROM STRAY BULLETS IN GANG WARS.

IN SHORT, THE CRIME PROBLEM HAS REACHED THE POINT THAT ANY EFFORTS AT SOCIAL REHABILITATION WILL BE OVERWHELMED WITHOUT AGGRESSIVE STEPS TO SUPPRESS VIOLENT CRIME.

IT WAS ONCE A SHIBBOLETH THAT "POVERTY CAUSES CRIME".

BUT -- TODAY -- WHAT IS CLEAR IS THAT "CRIME IS CAUSING POVERTY".

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN NEIGHBORHOODS TAKING JOBS AND OPPORTUNITIES WITH THEM.

POTENTIAL INVESTORS AND WOULD-BE EMPLOYERS ARE SCARED AWAY.

EXISTING OWNERS ARE DETERRED FROM MAKING IMPROVEMENTS.

AS PROPERTY VALUES GO DOWN, OWNERS DISINVEST.

I KNOW A SMALL CONTRACTOR WHO TRIED TO REHABILITATE INNER-CITY HOUSING FOR LOW INCOME TENANTS.

HE HAD TO GIVE UP BECAUSE DRUG ADDICTS WOULD BREAK IN, RIP OUT IMPROVEMENTS AND SELL THEM FOR DRUG MONEY.

THEY WOULD EVEN TEAR OUT ALL THE PIPING ON A REGULAR BASIS TO SELL IT FOR SCRAP. THIS CONTRACTOR, LIKE MANY OTHERS, HAS GIVEN UP.

ONE CRIMINOLOGIST DESCRIBES HOW CRIME IMPOVERISHES A WHOLE COMMUNITY:

"NEIGHBORHOOD DETERIORATION USUALLY STARTS WITH AN INCREASED SENSE OF FEAR AND VULNERABILITY. COMMERCE SLOWS; PEOPLE GO ELSEWHERE TO SHOP AND STAY OFF THE STREETS IN THE EVENING; STORES PUT IN ALARMS AND BARS IN THE WINDOWS; GOING-OUT-OF-BUSINESS SALES INCREASE, AND AS BUSINESSES CHANGE HANDS, THE QUALITY OF MERCHANDISE DECLINES AND PRICES RISE. BUILDINGS GET SHABBIER AND SOME ARE ABANDONED. DISORDERLY STREET BEHAVIOR INCREASES. INVESTMENTS AND LOANS DRY UP. PEOPLE WHO CAN AFFORD TO MOVE OUT OF THE AREA DO; SCHOOLS DETERIORATE; AND THE WHOLE COMMUNITY SLIDES DOWN THE SPIRAL OF ECONOMIC AND SOCIAL DECLINE."

IN SHORT, YOU CANNOT HAVE PROGRESS AMID CHAOS.

NO URBAN REDEVELOPMENT PROGRAM CAN ARREST THE DECLINE OF OUR INNER CITIES -- AND NO ANTI-POVERTY SOCIAL PROGRAMS CAN TAKE HOLD -- UNLESS THEY ARE COMBINED WITH TOUGH LAW ENFORCEMENT MEASURES TO REDUCE CRIME.

AND SO, I BELIEVE THE MUSCLE MAYORS ARE ABSOLUTELY RIGHT IN PUTTING EMPHASIS ON FIGHTING VIOLENT CRIME AND GETTING VIOLENT CRIMINALS OFF THE STREETS, SO THAT LAW ABIDING CITIZENS CAN MAKE THE MOST OF OPPORTUNITIES AND PURSUE THEIR HOPES AND DREAMS.

II.

AND THAT BRINGS ME TO MY SECOND POINT -- HOW DO WE GO ABOUT GETTING THESE CRIMINALS OFF THE STREET, AND MAKING OUR COMMUNITIES SAFER.

LAST TIME I SPOKE BEFORE THIS COMMISSION I DISCUSSED THIS QUESTION AT LENGTH.

TODAY, I WILL JUST SUMMARIZE A FEW KEY POINTS.

THE EVIDENCE IS CLEAR THAT THE PROBLEM OF VIOLENT CRIME TODAY IS LARGELY THE PROBLEM OF THE CHRONIC VIOLENT OFFENDER.

STUDY-AFTER-STUDY SHOW THAT THERE IS A SMALL SEGMENT OF OUR POPULATION WHO ARE HABITUAL VIOLENT OFFENDERS.

EACH OF THESE CAREER CRIMINALS COMMITS A STAGGERING NUMBER OF CRIMES WHEN THEY ARE OUT ON THE STREETS -- SCORES, INDEED HUNDREDS, OF CRIMES PER YEAR.

ONE STUDY OF 240 CRIMINALS FOUND THAT THEY WERE RESPONSIBLE FOR HALF A MILLION CRIMES OVER AN ELEVEN YEAR PERIOD -- AN AVERAGE OF 190 CRIMES A YEAR EACH. OTHER STUDIES SHOW SIMILAR RESULTS.

THIS GROUP OF CHRONIC OFFENDERS IS RESPONSIBLE FOR A DISPROPORTIONATE PART OF THE PREDATORY VIOLENCE WE SEE AROUND US -- THE ROBBERIES, THE BURGLARIES, THE RAPES, AND MUCH OF THE MURDER.

YOU ALL KNOW THE PROFILE.

THESE OFFENDERS TYPICALLY START COMMITTING CRIMES WHEN THEY ARE JUVENILES AND KEEP ON COMMITTING CRIMES AS ADULTS.

BY NOW IT IS CLEAR THAT THEY ARE LARGELY INCORRIGIBLE.

RECIDIVISM IS ALMOST A CERTAINTY.

THEY COMMIT NEW CRIMES WHEN THEY ARE ON BAIL, ON PROBATION,
OR ON PAROLE.

THE EVIDENCE SUGGESTS THAT, BY THE THIRD ARREST OR SO, THE
REPEAT OFFENDER HAS EMBARKED ON A CAREER OF CRIME THAT WILL
USUALLY PROVE TO BE IRREVERSIBLE.

IT IS NOT UNTIL THESE CHRONIC OFFENDERS REACH THEIR LATE
30'S THAT WE SEE ANY APPRECIABLE DROP IN THEIR RECIDIVISM RATES.

WITH THIS CAREER CRIMINAL GROUP, ONE THING IS CLEAR: THE
ONLY TIME WE KNOW THEY ARE NOT COMMITTING CRIMES IS WHEN THEY ARE
LOCKED UP.

INCARCERATION IS THE ONLY EFFECTIVE WAY TO PREVENT THESE
PREDATORS FROM COMMITTING MORE CRIMES. AND IN MY VIEW, IS THE
ONLY ACCEPTABLE RESPONSE TO PROTECT SOCIETY FROM SUCH CLEAR
DANGER.

WE KNOW, WITH MORAL CERTAINTY, THAT THE MORE TIME THESE
SERIOUS VIOLENT OFFENDERS ARE HELD IN CUSTODY -- WHETHER IN
PRISON OR IN JAIL -- THE FEWER VIOLENT CRIMES AND VICTIMS THERE
WILL BE.

THE MORE THESE SERIOUS VIOLENT OFFENDERS ARE PREMATURELY

RELEASED BACK ONTO THE STREETS, THE MORE VIOLENT CRIME AND VICTIMS THERE WILL BE.

UNFORTUNATELY, IN FAR TOO MANY JURISDICTIONS -- INCLUDING TEXAS -- WE HAVE "REVOLVING DOOR" SYSTEMS OF JUSTICE WHICH ARE PREMATURELY RELEASING VIOLENT CRIMINALS BACK OUT ON THE STREETS WHERE THEY COMMIT MORE CRIME.

THIS IS FREQUENTLY BECAUSE STATES DO NOT HAVE ESSENTIAL LEGAL TOOLS -- LIKE PRE-TRIAL DETENTION FOR DANGEROUS OFFENDERS, OR STIFF MANDATORY SENTENCES FOR REPEAT OFFENDERS.

IT IS ALSO BECAUSE MANY STATES DO NOT HAVE ENOUGH PRISON SPACE TO HOLD VIOLENT OFFENDERS FOR ANY LENGTH OF TIME.

BECAUSE OF THIS "REVOLVING DOOR" SYSTEM, HUNDREDS OF THOUSANDS OF DANGEROUS CHRONIC OFFENDERS ARE BEING CYCLED BACK OUT ON THE STREETS.

THE RESULTS ARE PREDICTABLE -- MORE CRIME.

LET ME GIVE YOU AN EXAMPLE.

PHILADELPHIA HAS A SHORTAGE OF JAIL SPACE AND A POPULATION CAP IMPOSED ON THE JAIL BY A FEDERAL COURT.

AS A RESULT, THE CITY CANNOT HOLD MANY REPEAT DANGEROUS OFFENDERS IN PRE-TRIAL DETENTION.

THE CASE OF "J.W." IS TYPICAL.

POLICE ARRESTED J.W. FOR BURGLARY AND THEFT ON APRIL 12, 1989. HE WAS RELEASED. HE FAILED TO APPEAR FOR TRIAL. ON NOVEMBER 15, 1989, HE WAS ARRESTED AGAIN FOR ROBBERY, ASSAULT AND THEFT. CASE NUMBER TWO: FAILED TO APPEAR. ON FEBRUARY 1, 1990, ARRESTED FOR BURGLARY AND THEFT. CASE NUMBER THREE: FAILED TO APPEAR. I WON'T BORE YOU WITH 12 SEPARATE ARRESTS FOR BURGLARY, THEFT, AUTO THEFT AND SO FORTH -- 12 CASES HE FAILED TO APPEAR. FINALLY, ON THE 12TH CASE HE WAS HELD IN PRE-TRIAL DETENTION.

NOW THE SIMPLE FACT IS THAT IF THIS INDIVIDUAL HAD BEEN HELD THE FIRST, SECOND OR THIRD TIME -- ALL THOSE OTHER OFFENSES WOULD NOT HAVE BEEN COMMITTED.

INDEED, IN PHILADELPHIA, LAST YEAR ALONE, 77 PRISONERS RELEASED BECAUSE OF THE JAIL CAP WERE LATER REARRESTED ON MURDER CHARGES.

LAST MONTH IN NEW JERSEY, WE SAW ANOTHER CHILLING EXAMPLE OF THE PRICE WE PAY FOR REVOLVING DOOR JUSTICE.

A "MODEL PRISONER" WAS PAROLED AFTER HE SERVED 10 YEARS ON A 30 YEAR SENTENCE FOR TWO AGGRAVATED SEXUAL ASSAULTS AND ROBBERY.

WITHIN 5 MONTHS OF HIS RELEASE INTO AN INTENSIVELY SUPERVISED PAROLE PROGRAM, THIS PAROLEE WAS ARRESTED AND CHARGED WITH THE BRUTAL KILLINGS OF 5 WOMEN AND THE AGGRAVATED ASSAULT AND ATTEMPTED MURDER OF TWO OTHER WOMEN.

IF THIS VIOLENT CRIMINAL HAD SERVED MORE OF HIS SENTENCE, FIVE YOUNG WOMEN WOULD BE ALIVE TODAY.

CRIMES COMMITTED BY CHRONIC OFFENDERS ARE AVERTABLE.

WE CAN PREVENT MANY CRIMES FROM OCCURRING SIMPLY BY SLOWING THE REVOLVING DOOR -- BY NOT RELEASING REPEAT VIOLENT OFFENDERS SO EARLY AND BY STARTING TO MAKE THEM SERVE APPROPRIATELY LONGER SENTENCES.

IN OUR LIFETIME, AND IN THE LIFETIME OF OUR CHILDREN, THE ONLY WAY WE ARE GOING TO REDUCE VIOLENT CRIME IS TO PURSUE A POLICY OF TARGETING AND INCAPACITATING CHRONIC VIOLENT OFFENDERS -- IDENTIFY THEM; CATCH THEM; AND THEN, ONCE WE HAVE CAUGHT THEM, HAVE THE LEGAL TOOLS AND THE PHYSICAL CAPACITY TO HOLD THEM IN CUSTODY FOR A LENGTH OF TIME DICTATED BY THE PUBLIC'S SAFETY.

IF WE ARE GOING TO MAKE ANY PROGRESS IN FIGHTING VIOLENT CRIME IN THE 1990'S, WE WILL HAVE TO DO WILL THREE THINGS:

FIRST, WE ARE GOING TO HAVE TO CONTINUE TO MAKE SUBSTANTIAL INVESTMENTS IN OUR LAW ENFORCEMENT.

SECOND, WE ARE GOING TO HAVE TO CONTINUE TO PRESS FOR URGENTLY-NEEDED LEGAL REFORMS AT BOTH THE FEDERAL AND THE STATE LEVEL.

THIRD, WE ARE GOING TO HAVE TO BE AS AGGRESSIVE AS WE CAN BE IN USING OUR RESOURCES TO TARGET AND INCAPACITATE THE MOST VIOLENT OFFENDERS.

LET ME TOUCH BRIEFLY ON EACH OF THESE.

AS TO RESOURCES, EVEN IN THESE VERY TIGHT FISCAL TIMES, WE HAVE BEEN VERY FORTUNATE AT THE FEDERAL LEVEL TO HAVE A PRESIDENT WHO HAS MADE FIGHTING CRIME A PRIORITY.

PRESIDENT BUSH HAS INCREASED THE DEPARTMENT OF JUSTICE'S BUDGET BY 60 PERCENT IN THE FIRST THREE YEARS OF HIS ADMINISTRATION, AND HE IS SEEKING ANOTHER 10 PERCENT THIS YEAR.

THIS HAS MEANT THOUSANDS OF NEW FEDERAL PROSECUTORS AND LAW ENFORCEMENT AGENTS AROUND THE COUNTRY.

MOST IMPORTANT OF ALL, DURING THE FIRST 3 YEARS, PRESIDENT BUSH HAS OBTAINED FUNDING TO INCREASE THE FEDERAL PRISON CAPACITY 118 PERCENT -- MORE THAN DOUBLING FEDERAL PRISON CAPACITY.

AND, IN THE WAR ON DRUGS, WE'VE GONE FROM \$4.5 BILLION IN THE BEGINNING OF THE ADMINISTRATION TO \$12.7 BILLION THIS YEAR.

BUT, IT IS AT THE STATE LEVEL WHERE THE MAIN BATTLE IS BEING FOUGHT. IF WE ARE GOING TO MAKE ANY HEADWAY AGAINST VIOLENT CRIME, THIS SAME KIND OF COMMITMENT TO RESOURCES IS GOING TO HAVE TO BE MIRRORED AT THE STATE LEVEL.

NOW IS NOT THE TIME TO SCRIMP ON RESOURCES FOR LAW ENFORCEMENT. AND NOW IS NOT THE TIME FOR CUTBACKS.

THE PRESIDENT HAS SAID THAT THE BUDGETS OF POLICE, PROSECUTORS', COURTS', AND CORRECTIONS ARE NOT JUST ANOTHER LINE ITEM IN THE BUDGET. THEY ARE THE VERY FIRST DUTY OF THE GOVERNMENT.

AS I SAID, INVESTMENT IN PRISON CAPACITY IS CRITICALLY IMPORTANT. WHILE BUILDING MORE PRISON SPACE IS COSTLY, THE COST OF FAILING TO PROVIDE ADEQUATE PRISON SPACE IS EVEN HIGHER. I APPLAUD TEXAS FOR MOVING AHEAD WITH ITS SUBSTANTIAL NEW PRISON EXPANSION PROGRAM.

SECONDLY, IN ADDITION TO RESOURCES, WE'RE STILL IN DIRE NEED OF LEGAL REFORM IN THIS COUNTRY.

WE TOUGHENED UP THE FEDERAL SYSTEM CONSIDERABLY DURING THE 80'S. WE GOT STRONG PRE-TRIAL DETENTION; WE ABOLISHED PAROLE; WE GOT TOUGH SENTENCES.

RIGHT NOW, THE FEDERAL SYSTEM IS PROBABLY THE TOUGHEST IN THE NATION. BUT MORE HAS TO BE DONE.

THE PRESIDENT HAS PROPOSED A CRIME BILL TO CARRY OUT THIS UNFINISHED AGENDA AT THE FEDERAL LEVEL.

HE'S SEEKING THE DEATH PENALTY.

HE'S SEEKING STRICTER PENALTIES FOR FELONS WHO USE FIREARMS IN THEIR OFFENSES.

HE'S SEEKING A BROADENING OF THE GOOD FAITH EXCEPTION TO THE EXCLUSIONARY RULE, SO THAT CRIMINALS DO NOT GO FREE DUE TO INADVERTANT ERRORS BY THE POLICE.

AND HE'S SEEKING, MOST IMPORTANT OF ALL, AN END TO HABEAS CORPUS ABUSE.

WE RECENTLY SAW A TEXTBOOK EXAMPLE OF THE ABUSE OF HABEAS CORPUS IN THE CALIFORNIA CASE OF ROBERT ALTON HARRIS -- THE MURDERER OF TWO TEENAGE BOYS -- WHO WAS ABLE TO DELAY HIS PUNISHMENT FOR 11 YEARS BY FILING A SERIES OF 16 STATE AND FEDERAL PETITIONS.

THIS ABUSE OF HABEAS CORPUS IS UNDERMINING THE INTEGRITY OF THE STATE CRIMINAL JUSTICE SYSTEM.

IT HAS BECOME AN AVENUE FOR THE ENDLESS REOPENING OF CASES AND THE RAISING OF FRIVOLOUS CLAIMS THAT HAVE NOTHING TO DO WITH GUILT OR INNOCENCE.

EVERY YEAR, THE VICTIMS' FAMILIES HAVE TO WITNESS THE SPECTACLE OF THE REOPENING OF CASES. JUSTICE NEVER COMES TO AN END. THERE IS NO FINALITY.

WE HAVE TO PUT A STOP TO THIS ABUSE. THAT IS WHY THE PRESIDENT'S CRIME BILL IS SO IMPORTANT.

BUT REFORM ON THE FEDERAL LEVEL CAN ONLY HAVE A LIMITED IMPACT ON VIOLENT STREET CRIME. WE STILL NEED LEGAL REFORM ON THE STATE LEVEL.

IF THE 80'S WERE THE TIME WHERE WE REFORMED THE FEDERAL

SYSTEM, THE 90'S HAVE TO BE A TIME WHERE WE REFORM THE STATE SYSTEMS.

I KNOW THE MUSCLE MAYORS ARE IN THE PROCESS OF FRAMING A PROPOSED LEGISLATIVE PACKAGE TO STRENGTHEN THE CRIMINAL JUSTICE SYSTEM OF TEXAS.

ONCE AGAIN, I APPLAUD THE MUSCLE MAYORS FOR THEIR VITAL LEADERSHIP.

AMONG MAJOR PROPOSALS BEING CONSIDERED ARE: AN END TO EARLY RELEASE; TOUGHER BOND PROCEDURES TO STOP THE RELEASE OF VIOLENT OFFENDERS; AND ESTABLISHMENT OF MANDATORY SENTENCES FOR USE OF A FIREARM IN A CRIME.

THESE, AS WELL AS OTHER PROPOSALS UNDER REVIEW, ARE CRITICALLY IMPORTANT, AND I URGE THE TEXAS LEGISLATURE TO GIVE THEM PROMPT AND FAVORABLE CONSIDERATION WHEN IT CONVENES IN JANUARY.

ON A PARALLEL TRACK, IN THE NEXT WEEK OR SO I WILL BE RELEASING A COMPREHENSIVE VIOLENT CRIME REPORT THAT CONTAINS 24 SPECIFIC RECOMMENDATIONS ON STRENGTHENING STATE CRIMINAL JUSTICE SYSTEMS.

IT CONTAINS, AMONG OTHER THINGS, SPECIFIC RECOMMENDATIONS ON TRUTH IN SENTENCING; UPDATED EVIDENTIARY RULES TO ENHANCE THE TRUTH-FINDING FUNCTIONS OF THE TRIAL; IMPROVEMENTS IN THE JUVENILE JUSTICE SYSTEM; AND PROVISIONS WHICH PROTECT THE ROLE OF THE VICTIM IN THE CRIMINAL JUSTICE PROCESS.

I WILL BE TRANSMITTING THIS REPORT TO THE DALLAS CRIME COMMISSION AND THE MUSCLE MAYORS, AND I HOPE IT IS OF USE TO YOU IN YOUR ONGOING EFFORTS TO STRENGTHEN TEXAS' CRIMINAL JUSTICE SYSTEM.

BEYOND THE NEED FOR RESOURCES AND REFORM -- I MENTIONED THE NEED TO FOCUS OUR EXISTING RESOURCES WHERE THEY WILL DO THE MOST GOOD AGAINST THE HARDEST CORE ELEMENT.

WHILE WE RECOGNIZE THAT 95% OF VIOLENT CRIME FALLS WITHIN STATE AND LOCAL RESPONSIBILITY, THIS ADMINISTRATION BELIEVES IN FORGING A STRONG PARTNERSHIP TO FIGHT VIOLENT CRIME TOGETHER.

SO WE HAVE INITIATED A NUMBER OF PROGRAMS WHERE, BY WORKING JOINTLY WITH STATE AND LOCAL LAW ENFORCEMENT, WE CAN BRING OUR FEDERAL ASSETS TO BEAR AND HELP THE STATES DEAL MORE EFFECTIVELY WITH HARDCORE OFFENDERS.

IN "OPERATION TRIGGERLOCK", FOR EXAMPLE, WE USE TOUGH

FEDERAL FIREARM STATUTES TO GIVE HEAVY MANDATORY MINIMUM SENTENCES TO CHRONIC REPEAT FIREARM OFFENDERS.

LAST WEEK WAS THE FIRST ANNIVERSARY OF THIS PROGRAM, AND IN THAT ONE YEAR WE CHARGED OVER 6,000 CHRONIC OFFENDERS.

THIS REPRESENTS 10 PERCENT OF THE FEDERAL PROSECUTION CASE LOAD, AND A DOUBLING OF OUR PRIOR PROSECUTION RATE ON FIREARMS CASES.

IN TEXAS ALONE, WE HAVE CHARGED 767 VIOLENT OFFENDERS UNDER TRIGGERLOCK.

THESE OFFENDERS ARE GETTING MUCH HEAVY SENTENCES THAN THEY WOULD GET IN STATE COURT AND ARE SERVING THEIR TIME IN FEDERAL PRISON WITHOUT PAROLE.

TAKE, FOR EXAMPLE, THE CASE OF OTIS MAJOR JOHNSON, HERE IN DALLAS. HE WAS CONVICTED OF AGGRAVATED ROBBERY WITH A DEADLY WEAPON IN 1977; ATTEMPTED BURGLARY IN 1985; AND VOLUNTARY MANSLAUGHTER IN 1987. HE WAS SUBSEQUENTLY CAUGHT ILLEGALLY CARRYING A FIREARM. WE CONVICTED HIM FEDERALLY AS AN "ARMED CAREER CRIMINAL", AND HE WILL BE SERVING 16 YEARS IN FEDERAL PRISON.

THE CASE OF JOSE OSCAR NINO IS ANOTHER EXAMPLE. NINO WAS CONVICTED OF 8 FELONIES BETWEEN 1957 AND 1981, THE MOST RECENT FOR BURGLARY. WHILE ON PAROLE, HE WAS CAUGHT IN POSSESSION OF TWO HANDGUNS, ONE LOADED WITH HOLLOW POINT AMMUNITION. WE CONVICTED HIM FEDERALLY AS AN ARMED CAREER CRIMINAL, AND HE WILL BE SERVING A 19-YEAR SENTENCE.

WE ARE PRESSING AHEAD WITH TRIGGERLOCK, AND BY TAKING HUNDREDS OF VIOLENT PREDATORS LIKE THESE OFF THE STREETS, WE THINK WE ARE HELPING TO MAKE TEXAS A SAFER PLACE.

ANOTHER AREA WHERE WE CAN HELP OUR STATE AND LOCAL COLLEAGUES IS IN THE AREA OF GANGS. BECAUSE OF OUR TOUGH FEDERAL FIREARM STATUTES, DRUG STATUTES AND OUR RICO STATUTES, WE HAVE THE ABILITY TO TAKE OUT ENTIRE ORGANIZATIONS IN ONE FELL SWOOP.

FOR EXAMPLE, FOR TWO YEARS, WE HAD THE VIOLENT TRAFFICKERS PROJECT GOING ON IN PHILADELPHIA.

IN THAT TWO YEAR PERIOD, WE ARRESTED AND SUCCESSFULLY PROSECUTED 600 GANG MEMBERS.

THEY WERE DETAINED PRE-TRIAL AND ARE NOW SERVING LONG SENTENCES IN FEDERAL PENITENTIARIES.

BECAUSE OF THAT EFFORT, LAST YEAR THE NUMBER OF PERSONS ON PRE-TRIAL DETENTION IN PHILADELPHIA DOUBLED.

PHILADELPHIA WAS ONE OF THE FEW MAJOR CITIES TO EXPERIENCE AN APPRECIABLE DECREASE IN MURDERS LAST YEAR.

ITS DRUG-RELATED HOMICIDES DROPPED BY 38 PERCENT; ITS OVERALL HOMICIDE RATE BY 11 PERCENT.

PHILADELPHIA POLICE ATTRIBUTE THIS IN LARGE PART TO THIS JOINT FEDERAL-STATE ANTI-GANG EFFORT.

SINCE I TOOK OVER AS ATTORNEY GENERAL 6 MONTHS AGO, I HAVE DEPLOYED TO TEXAS SUBSTANTIAL NEW RESOURCES TO STEP UP THE ATTACK ON GANGS. THESE RESOURCES CAME FROM AGGRESSIVE REPROGRAMMING WITHIN MY BUDGET.

31 FBI AGENTS HAVE BEEN ADDED TO VIOLENT CRIME AND ANTI-GANG SQUADS IN TEXAS, 13 JUST IN DALLAS.

5 DEA AGENTS HAVE JUST BEEN REASSIGNED FROM HEADQUARTERS TO TEXAS TO TARGET VIOLENT GANGS.

AS PART OF A CRACKDOWN ON CRIMINAL ALIEN GANG MEMBERS, I HAVE ASSIGNED 19 NEW INS CRIMINAL INVESTIGATORS TO TEXAS. THIS

EFFORT WILL ALSO BE HELPED BY MY ACTION IN ADDING 145 NEW BORDER PATROL AGENT POSITIONS IN TEXAS THIS YEAR.

ANOTHER PROGRAM IS OPERATION GUNSMOKE, WHICH WE CONCLUDED JUST LAST WEEK. THIS WAS THE LARGEST FUGITIVE ROUND UP IN HISTORY, AND WAS CARRIED OUT IN 14 CITIES ACROSS THE NATION.

FOR TWO MONTHS, U.S. MARSHALS, WORKING WITH STATE AND LOCAL OFFICERS, SOUGHT OUT THE WORST CHRONIC VIOLENT OFFENDERS THEY COULD FIND.

WE ENDED UP CATCHING 3,313 FUGITIVES. THESE WERE CHRONIC VIOLENT OFFENDERS WHO AVERAGED 4 PREVIOUS CONVICTIONS APIECE.

IN TEXAS, GUNSMOKE SWEEPED UP 350 DANGEROUS FUGITIVES. [AN EXAMPLE IS REGINALD MILLER, ARRESTED IN HOUSTON ON FIRST DEGREE MURDER CHARGES. MILLER HAS PRIOR CONVICTIONS FOR ROBBERY, AGGRAVATED ASSAULT ON A CHILD, AND BURGLARY. AT THE TIME OF THE MURDER HE WAS A PAROLEE ON FELONY THEFT CHARGES.]

WE PLAN TO PROSECUTE MANY GUNSMOKE FUGITIVES ON FEDERAL CHARGES WHERE FEASIBLE SO WE CAN GET TOUGH FEDERAL SENTENCES.

ANOTHER AREA WHERE WE HAVE INITIATED NEW POLICIES TO HELP THE STATES IS IN PRISON LITIGATION. IN JANUARY I STATED OUR

POSITION THAT THE BUSINESS OF RUNNING PRISONS BELONGS TO STATE OFFICIALS, NOT TO JUDGES AND SPECIAL MASTERS.

I ANNOUNCED THAT THE DEPARTMENT OF JUSTICE WOULD SUPPORT THOSE STATES THAT ARE OPERATING THEIR PRISONS IN GOOD FAITH COMPLIANCE WITH THE CONSTITUTION AND THAT SEEK RELIEF FROM JUDICIALLY-IMPOSED PRISON CAPS AND OTHER UNDUE CONSTRAINTS.

IN LINE WITH THIS POLICY, SEVERAL MONTHS AGO THIS ADMINISTRATION THREW ITS FULL WEIGHT BEHIND ATTORNEY GENERAL MORALES' EFFORT TO TERMINATE THE 20-YEAR OLD RUIZ CASE AND GET BACK FOR THE PEOPLE OF TEXAS THE RIGHT TO RUN THEIR OWN PRISON SYSTEM.

I TAKE THIS OPPORTUNITY TO REITERATE MY VIEW THAT RUIZ SHOULD BE TERMINATED. DAN MORALES KNOWS I STAND READY TO TAKE FURTHER ACTION TO SUPPORT HIS POSITION WHENEVER HE NEEDS IT.

WHILE THERE ARE NUMEROUS OTHER WAYS THIS ADMINISTRATION IS WORKING COOPERATIVELY WITH STATE AND LOCAL LAW ENFORCEMENT TO COMBAT VIOLENT CRIME, THERE IS ONE MORE I WANT TO MENTION, BECAUSE IT IS A NEW INITIATIVE WE ARE ANNOUNCING TODAY.

TO HELP COMBAT DRUG TRAFFICKING, MAYOR BARTLETT AND CHIEF RATHBURN HAVE ASKED THE DEPARTMENT OF JUSTICE TO USE ITS ASSET

FORFEITURE TO HELP DALLAS HOLD DRUG USERS ACCOUNTABLE FOR THEIR DRUG PURCHASES.

I HAVE AGREED TO THIS REQUEST AND HAVE DIRECTED THAT THIS PROGRAM BE IMPLEMENTED.

UNDER THIS PROGRAM, IF ILLEGAL DRUGS OF ANY AMOUNT ARE FOUND IN A VEHICLE, THE POLICE WILL SEIZE THE VEHICLE, AND THE DEA WILL FORFEIT THE VEHICLE THROUGH ITS ADMINISTRATIVE PROCEDURES. OWNERS WILL OBVIOUSLY HAVE DUE PROCESS RIGHTS TO CHALLENGE ANY FORFEITURE.

WE WILL CONTINUE TO EVALUATE THIS PROGRAM AS IT GOES FORWARD TO DETERMINE ITS EFFECTIVENESS AND ITS SUITABILITY FOR USE IN OTHER CITIES.

WHAT ALL THIS MEANS IS THAT, IF WE FOCUS OUR EFFORTS ON INCAPACITATING CHRONIC VIOLENT OFFENDERS, AND IF WE INVEST ADEQUATE RESOURCES, ACHIEVE NEEDED LEGAL REFORMS, AND WORK COOPERATIVELY IN MOUNTING AGGRESSIVE OPERATIONS (PARTICULARLY THOSE TARGETED AT CHRONIC OFFENDERS) -- THEN WE WILL HAVE A REAL PROSPECT OF REDUCING VIOLENT CRIME AND PROVIDING AN ENVIRONMENT WITHIN WHICH -- AND A FOUNDATION UPON WHICH -- OUR EFFORTS TO REBUILD OUR COMMUNITIES CAN BE SUCCESSFUL.

III.

AND THAT BRINGS ME TO MY THIRD AND FINAL POINT.

AS I SAID AT THE OUTSET, TO ACHIEVE ANY REAL PROGRESS IN STOPPING CRIME AND REBUILDING OUR COMMUNITIES, STRONG LAW ENFORCEMENT MUST BE COMBINED WITH ECONOMIC, SOCIAL, AND MORAL REHABILITATION OF OUR INNER CITY NEIGHBORHOODS.

BUT HOW DO WE GO ABOUT THE TASK OF REVITALIZING OUR COMMUNITIES? WHAT TYPES OF SOCIAL PROGRAMS SHOULD WE BE PURSUING?

IN THE WAKE OF THE LOS ANGELES RIOTS SOME SUGGEST THAT WE NEED ANOTHER ROUND OF MASSIVE SPENDING ON SOCIAL WELFARE PROGRAMS.

I BELIEVE THAT VIEW IS MISTAKEN. RATHER, I THINK WE NEED TO LEARN FROM THE PAST -- TO CONSIDER WHETHER WE CAN DO BETTER.

OVER THE LAST TWENTY-FIVE YEARS WE HAVE Poured TRILLIONS OF DOLLARS INTO SOCIAL WELFARE PROGRAMS.

WHAT HAVE WE GOTTEN FOR ALL OF THIS INVESTMENT?

WHILE SOME PROGRAMS -- SUCH AS HEAD START -- HAVE PROVEN WORTHWHILE, I THINK THAT ANY FAIR-MINDED OBSERVER WOULD HAVE TO SAY THAT THE OVERALL RESULTS OF THIS TWENTY-FIVE YEAR "WAR ON POVERTY" HAVE BEEN DISAPPOINTING.

IN OUR INNER CITIES, POVERTY SEEM TO BE AS STUBBORN AS EVER.

ILLEGITIMACY AND THE NUMBER OF SINGLE PARENT FAMILIES HAVE SOARED. MARRIAGE, SCHOOL ATTENDANCE, AND EMPLOYMENT HAVE DROPPED.

WHAT SHOULD WE DO NOW?

IN MY VIEW, THE SOLUTION IS NOT IN THE SCALE OF THE PROGRAMS BUT IN THEIR STRUCTURE. WE MUST BE SMARTER ABOUT HOW WE SPEND ON SOCIAL PROGRAMS.

IN THIS REGARD, FROM THE BEGINNING OF HIS ADMINISTRATION, THE PRESIDENT HAS BEEN PUSHING A REFORM AGENDA THAT SEEKS TO AVOID THE MISTAKES OF THE PAST, AND TO PROMOTE REAL OPPORTUNITY.

A.

ALL TOO OFTEN IN THE PAST, OUR PROGRAMS HAVE FOSTERED DEPENDENCY. WE HAVE PURSUED TOP-DOWN PROGRAMS IN WHICH THE GOVERNMENT HAS SOUGHT TO IMPOSE SOLUTIONS. THEY HAVE OFTEN

CONTAINED PERVERSE INCENTIVES THAT REWARD NON-WORK, RATHER THAN WORK.

AS THE PRESIDENT HAS SAID, WE HAVE PROVIDED A SAFETY NET, BUT NO LADDER OUT OF POVERTY. THE CHALLENGE AHEAD OF US IS TO PROVIDE THAT LADDER.

THAT IS WHY THIS ADMINISTRATION HAS, IN ADDITION TO PROVIDING A SAFETY NET, PROPOSED NEW IDEAS THAT PROMOTE BOTTOM-UP GROWTH, AND THE CREATION OF JOBS AND OPPORTUNITY.

ENTERPRISE ZONES ARE A PERFECT EXAMPLE. EVERYONE AGREES WE NEED JOBS IN THE INNER CITIES. BUT TO GET JOBS WE NEED SUBSTANTIAL INDUCEMENTS FOR INVESTMENT.

ENTERPRISE ZONES WOULD PROVIDE SUCH INCENTIVES, OFFERING SIGNIFICANT INCENTIVES FOR INVESTMENT IN OUR INNER CITIES.

IT IS CLEARLY AN IDEA WHOSE TIME HAS COME.

WE ARE ALSO SEEKING TO PROMOTE HOMEOWNERSHIP IN THE INNER-CITY. NOTHING GIVES AN INDIVIDUAL A STAKE IN THE COMMUNITY LIKE HOMEOWNERSHIP.

AMONG OTHER THINGS, WE HAVE PROPOSED "HOMEOWNERSHIP OPPORTUNITIES FOR PEOPLE EVERYWHERE" -- HOPE -- GRANTS, ALLOWING

THE USE OF RENTAL SUBSIDIES FOR HOME PURCHASES, AND TAX CREDITS FOR FIRST TIME HOME BUYERS.

JACK KEMP IS ALSO WORKING HARD TO OFFER PUBLIC HOUSING RESIDENTS THE OPPORTUNITY TO TAKE OVER MANAGEMENT OF THEIR COMMUNITIES, AND TO BUY THEIR HOUSING UNITS AT DISCOUNTED PRICES AND LOW MORTGAGE RATES.

AND OF COURSE, WE HAVE PURSUED THE EARNED INCOME TAX CREDIT. THIS PROMOTES EMPLOYMENT AND OPPORTUNITY BECAUSE, INSTEAD OF REWARDING NON-WORK, IT REWARDS WORK. PAY CHECKS -- RATHER THAN WELFARE CHECKS -- ARE CRITICAL IF WE ARE TO REVITALIZE OUR INNER CITIES.

AND HERE, TOO OUR JOB TRAINING 200 PROPOSALS WOULD PROMOTE OPPORTUNITY BY TRANSFORMING THE EXISTING COMPLEX OF OVER 60 JOB TRAINING PROGRAMS INTO A COORDINATED VOCATIONAL TRAINING SYSTEM RESPONSIVE TO THE NEEDS OF INDIVIDUALS, BUSINESSES AND THE NATIONAL ECONOMY.

THESE ARE JUST SOME OF THE IDEAS BY WHICH WE SEEK TO GO BEYOND DEPENDENCY AND TO CREATE AN ENVIRONMENT OF OPPORTUNITY FOR BOTTOM-UP, GRASSROOTS ECONOMIC GROWTH.

B.

MOREOVER, IN THE PAST, RATHER THAN STRENGTHEN FAMILIES, WELFARE POLICIES HAVE CONTAINED PERVERSE INCENTIVES THAT ACTUALLY REWARD AND PROMOTE NON-MARRIAGE AND ILLEGITIMACY.

THESE WELFARE POLICIES HAVE DIRECTLY CONTRIBUTED TO THE BREAKDOWN OF THE BLACK FAMILY OVER THE PAST 25 YEARS.

I HAVE BEEN STRUCK OVER THE LAST SEVERAL DAYS AT THE NUMBER OF COMMENTATORS -- FROM ACROSS THE POLITICAL SPECTRUM -- WHO AGREE THAT THE BREAKDOWN OF THE BLACK FAMILY IS ONE OF THE GREATEST -- IF NOT THE GREATEST -- PROBLEMS IN OUR INNER CITIES.

THE NUMBERS ARE STAGGERING -- AND HEART RENDING.

IN 1950, 75-80% OF BLACK FAMILIES WERE INTACT.

BEGINNING IN THE MID-1960'S THE ILLEGITIMACY RATE STARTED ESCALATING.

TODAY, MORE THAN 65% OF BLACK CHILDREN ARE BORN ILLEGITIMATE. IN MANY INNER CITIES THE RATE IS OVER 80%.

SINGLE PARENT FAMILIES ARE FAR MORE LIKELY THAN TWO PARENT FAMILIES TO LIVE IN POVERTY.

FURTHERMORE, THIS UNRAVELING OF THE FAMILY HAS BEEN A MAJOR CONTRIBUTOR TO CRIME -- THERE IS A DIRECT CORRELATION BETWEEN CRIME AND SINGLE PARENT HOUSEHOLDS IN THE INNER CITY.

THIS IS HARDLY SURPRISING, SINCE THE FAMILY IS THE MOST IMPORTANT INSTITUTION FOR INSTILLING VALUES IN OUR CHILDREN.

AND IT IS AS CHILDREN THAT MOST PEOPLE LEARN THE VALUES OF DISCIPLINE, SELF-RESPECT, AND RESPECT FOR LAW AND ORDER THAT ARE ESSENTIAL TO A SUCCESSFUL SOCIETY.

IN HIS STATE OF THE UNION ADDRESS, PRESIDENT BUSH CALLED FOR FUNDAMENTAL REFORM OF OUR WELFARE POLICIES. PART OF THIS REFORM MUST REVERSE THE INCENTIVES SO THAT, INSTEAD OF ENCOURAGING NON-MARRIAGE AND ILLEGITIMACY, WE ACTUALLY PROMOTE STABLE FAMILY LIFE.

STRONG FAMILIES WILL BE FAR MORE EFFECTIVE THAN BIG BUREAUCRACIES IN REVITALIZING OUR INNER CITIES.

C.

AND FINALLY, ANOTHER KEY SHORTCOMING IN THE PAST HAS BEEN OUR FAILURE TO COORDINATE OUR SOCIAL SERVICE PROGRAMS WITH EACH

OTHER, AND THEN OUR FAILURE TO INTEGRATE THESE SOCIAL PROGRAMS WITH LAW ENFORCEMENT.

WE HAVE HAD FOR THE PAST 25 YEARS MANY SOCIAL AGENCIES, INCLUDING THE DEPARTMENTS OF LABOR, HUD, HHS, EDUCATION, EACH WITH THEIR OWN GRANT PROGRAMS, SPEWING THEIR MONEY OUT INTO THE COUNTRY WITHOUT ANY REGARD FOR WHAT IS HAPPENING ON THE LAW ENFORCEMENT SIDE.

AND ON THE LAW ENFORCEMENT SIDE, WE HAVE HAD LEAA AND OTHER GRANT MAKING INSTITUTIONS PUTTING POLICE CRUISERS, COMMUNICATIONS GEAR AND OTHER LAW ENFORCEMENT ASSETS INTO COMMUNITIES WITHOUT ANY REGARD TO WHETHER THERE WERE ANY PROGRAMS OUT THERE TO SUPPORT THEM.

EDUCATION MAKES A HIGH-RISK YOUTH GRANT TO A NEIGHBORHOOD IN OUR CITY. HHS MAKES A DRUG PREVENTION GRANT -- THAT WOULD HAVE BEEN A GREAT COMPLEMENT TO THE YOUTH GRANT -- BUT MAKES IT TO A DIFFERENT NEIGHBORHOOD IN A DIFFERENT CITY. NEITHER NEIGHBORHOOD HAS AN EFFECTIVE LAW ENFORCEMENT PROGRAM UNDERWAY. AND MEANWHILE, A THIRD NEIGHBORHOOD IN A THIRD CITY STARTS UP AN EFFECTIVE COMMUNITY-BASED PROGRAM TO SUPPRESS CRIME BUT CAN'T GET SOCIAL SERVICES TO BACK IT UP. THE RESULT -- FAILURE IN ALL THREE NEIGHBORHOODS.

THE CHALLENGE OF THE 90'S IS TO LINK THESE EFFORTS UP -- TO DEPLOY AND FOCUS BOTH OUR LAW ENFORCEMENT ASSETS AND OUR SOCIAL RESOURCES AT THE SAME TIME, IN THE SAME PLACE, IN A MUTUALLY REINFORCING WAY.

AND TO ACCOMPLISH THIS, THE PRESIDENT HAS LAUNCHED THE "WEED AND SEED" PROGRAM. THE PROGRAM IS CURRENTLY UNDERWAY IN 16 CITIES ACROSS THE COUNTRY -- INCLUDING FORT WORTH AND SAN ANTONIO.

THE PRESIDENT IS SEEKING A SUBSTANTIAL EXPANSION OF THE WEED AND SEED PROGRAM IN HIS BUDGET FOR NEXT YEAR -- HE IS REQUESTING \$500 MILLION FOR THE PROGRAM.

WEED AND SEED INVOLVES THE TARGETING OF SPECIFIC BESIEGED NEIGHBORHOODS AND THE FOCUSING OF RESOURCES TO ASSIST THE RESIDENTS TO TAKE BACK THEIR STREETS AND REBUILD THEIR COMMUNITIES.

HERE'S HOW IT WORKS. AS THE FIRST STEP, FEDERAL, STATE AND LOCAL LAW ENFORCEMENT INTEGRATE AND FOCUS THEIR EFFORTS WITHIN A PARTICULAR NEIGHBORHOOD AND, WORKING WITH THE COMMUNITY, "WEED OUT" THE VIOLENT OFFENDERS, THE GANGS, AND THE DRUG TRAFFICKERS.

THEN, AS THE STREETS ARE RECLAIMED FROM THE CRIMINALS,

INTENSIVE COMMUNITY POLICING IS PUT INTO PLACE SO THAT THE GROUND IS HELD AFTER IT IS TAKEN.

AND FINALLY, THE BROAD PANOPLY OF FEDERAL, STATE, AND LOCAL GOVERNMENT RESOURCES, AND -- AT LEAST AS IMPORTANTLY -- PRIVATE SECTOR RESOURCES ARE BROUGHT TO BEAR AND FOCUSED ON THE COMMUNITY TO "SEED IN" LONG TERM STABILITY AND GROWTH.

WEED AND SEED IS A PROGRAM DESIGNED TO HELP RESIDENTS HELP THEMSELVES. TO ALLOW THEM TO FIGHT CRIME AND RECLAIM THEIR STREETS. TO ALLOW THEM TO CREATE THE ATMOSPHERE IN WHICH LONG TERM PROGRESS IS POSSIBLE.

IT IS A STRATEGY THAT COMBINES TOUGH LAW ENFORCEMENT WITH PHYSICAL, ECONOMIC AND MORAL REVITALIZATION.

I BELIEVE THE LAST TWENTY-FIVE YEARS HAVE TAUGHT US A NUMBER OF IMPORTANT AND DIFFICULT LESSONS.

-- WE MUST PROVIDE OPPORTUNITY FOR PEOPLE, NOT DEPENDENCY; A HAND UP RATHER THAN A HAND OUT.

-- WE MUST STRENGTHEN THE FAMILY AND THE OTHER SOCIAL INSTITUTIONS THAT ARE CRITICAL FOR A SUCCESSFUL COMMUNITY -- NOT TEAR THEM DOWN AND TRY TO REPLACE THEM WITH AN ALL POWERFUL, ALL KNOWING GOVERNMENT.

-- AND, WE MUST COORDINATE OUR SOCIAL PROGRAMS WITH A FOUNDATION OF STRONG, TOUGH LAW ENFORCEMENT SO THAT LAW ABIDING CITIZENS IN OUR INNER CITIES CAN RECLAIM THEIR COMMUNITIES FROM VIOLENT PREDATORS AND PULL THEMSELVES UP OUT OF POVERTY.

THE CHALLENGES AHEAD OF US ARE SUBSTANTIAL ONES. BUT I BELIEVE WE ARE ADVANCING A REFORM AGENDA THAT IS BASED ON THESE LESSONS AND THAT CAN SUCCEED IN REVITALIZING OUR INNER CITIES.

THE OVERWHELMING MAJORITY OF OUR CITIZENS ARE LAW ABIDING PEOPLE WHO WANT NOTHING MORE THAN A CHANCE TO LIVE IN PEACE, TO HAVE A JOB, AND TO WORK HARD TO IMPROVE THEIR LIVES AND THOSE OF THEIR CHILDREN.

WE OWE IT TO THESE PEOPLE TO MOVE FORWARD WITH A REFORM PROGRAM THAT HELPS THEM ACHIEVE THOSE GOALS.



Department of Justice

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE THE

GRAND RAPIDS ROTARY AND ECONOMICS CLUB

GRAND RAPIDS, MICHIGAN

THURSDAY, APRIL 30, 1992

✓ Today I want to talk to you about the problem of violent crime in our society.

✓ I don't have to tell anyone in ~~Grand Rapids~~ that things are at a grave juncture. ~~I've heard about [examples]~~

~~Innocent~~, law-abiding citizens are being deprived of their freedom. They are the ones who are forced to live behind locks and bars -- held prisoners in their own homes.

~~It is the violent predators~~ who seem to be at liberty -- free to roam the streets with impunity -- killing, taking what they wish, and terrorizing at will.

What can we do about violent crime?

There is a tendency in public discourse these days to draw a dichotomy between two different approaches to dealing with violent crime.

On the other hand, there is the law enforcement approach ^{through} ~~This approach tends to see crime as caused by criminals and seeks to deter, interdict, or incapacitate those criminals.~~ *which deal with crime mainly by apprehending, convicting, and incarcerating them.*

~~Proponents of this approach call for more enforcement activity and more severe punishments.~~ *Taking criminals off the street by apprehending, convicting, and incarcerating them.*

On the other hand, there is the social rehabilitation response to violent crime. This school tends to see crime as caused by societal ills and seeks to deal with crime by remedying these ills through various social programs.

Proponents of this approach say that law enforcement cannot solve the problem of violent crime alone simply by suppression. They say we must use social programs to address the so-called "root causes" of crime.

Today, I want to make three points which relate to this tension between a law enforcement response and a social programs' response to violent crime.

First, I want to explain why I believe that, these days, we must give priority to a tough law enforcement approach.

Second, I want to discuss what we have to do on the law enforcement side to have a real impact on violent crime.

And third, I want to suggest that -- on the social rehabilitation side -- we have to be a lot smarter about the kinds of programs we pursue.

So, let me turn first to why I believe a tough law enforcement approach must be paramount.

I recognize there is some truth in the notion that law enforcement cannot do the job alone.

I've frequently said that only an approach combining tough law enforcement with the economic and moral revitalization of high-crime areas offers the prospect of a safer America.

But those who advocate dealing with crime by attacking "root causes" are frequently far off the mark.

All too often, these social program advocates have presented their proposals as an alternative to tough law enforcement. Many, in fact, are critics of stepping up law enforcement measures -- which they dismiss as punitive.

They frequently have as their objective shifting resources from law enforcement to social programs -- "let's not build more prisons -- let's build more schools."

This thinking is flatly wrong. We must reject out-of-hand any notion that social programs are somehow a substitute for tough law enforcement policies.

On the contrary, it is increasingly clear that tough law enforcement measures are an absolute prerequisite for social programs to be successful.

Indeed, the problem today is that efforts at revitalizing our urban communities are being strangled by crime.

What good is it to put a "model school" in an inner city neighborhood only to see the school become a battleground for drug gangs?

What good is it to offer job training programs when the trainees are afraid to leave their homes?

In the Cabrini Green Housing Project in Chicago, a number of educational programs are underway. Unfortunately, the crime problem there is so bad that parents are having their children sleep in bathtubs -- essentially armored cribs -- to protect them from stray bullets in gang wars.

In short, the crime problem has reached the point that any efforts at social rehabilitation will be smothered -- overwhelmed -- without aggressive steps to suppress violent crime.

It was once a shibboleth that "poverty causes crime" -- always a debatable proposition.

But -- today -- what is beyond debate is that "crime causes poverty".

Businesses are driven from crime-ridden neighborhoods taking jobs and opportunities with them.

Potential investors and would-be employers are scared away.

Existing owners are deterred from making improvements.

As property values go down, owners disinvest.

I know a small contractor who tried to rehabilitate inner-city housing for low income tenants. He had to give up because drug addicts would break in, rip out improvements and sell them for drug money. They would even tear out all the piping on a regular basis to sell it for scrap.

You cannot have progress amid chaos.

No society has renewed itself without order.

Social programs are doomed to failure unless we get criminals off the streets.

And that brings me to my second point -- what we have to do to get criminals off the street.

My predecessor used to say that, before we can become a kinder and gentler America, we first have to be rougher and tougher on crime. He was absolutely right.

We need to get a lot tougher in dealing with violent crime.

From a law enforcement standpoint, I do not think there is much of a mystery as to what the problem is.

The problem of violent crime is largely the problem of the repeat offender.

Study after study shows that there is a tiny fraction of the population who are incorrigible, chronic offenders and who commit most of the predatory violence in our society.

For example, a 1980 study of just 240 habitual offenders found that this small group was responsible for over 500,000 crimes over an 11-year period -- an average of 190 crimes per year per offender.

In our country, we have well under 1 percent of the population -- probably only half a percent of the population -- committing the vast majority of predatory violent crimes.

We know the profile of these career criminals.

They start committing crimes as juveniles; and go right on committing crimes as adults.

When arrested and released before trial, they go right on committing crimes.

When given probation instead of a prison term, they go right on committing crimes.

When released from prison on parole or early release, they go right on committing crimes.

The only time we are sure these chronic offenders are not committing crimes is when they are locked up in prison.

And that, in a word, is the answer.

In my view, the only way that we will be able to reduce violent crime is to:

- target these chronic offenders;
- take them off the streets;
- remove them from society and incapacitate them by giving them long prison sentences and keeping them locked up in prison until they have served their entire sentence.

We can debate ad nauseam about the "root causes" of crime. We can debate whether prisons can rehabilitate criminals. And, we can debate the extent to which prisons deter offenders.

But one thing cannot be debated: prison incapacitates violent criminals.

For every year that a chronic offender sits in his prison cell, we know with moral certainty that there are scores, perhaps hundreds, of fewer violent crimes being committed -- and scores, perhaps hundreds, fewer victims on our streets.

In my view, if we want to achieve any reduction in violent crime in our society in our lifetime, and in our children's lifetime, this policy of incapacitating repeat offenders through incarceration is the only policy that has any prospect of success.

In the 1990's, we cannot be content to hold violent crime in check at its already unacceptably high levels.

The choice is clear. We must press ahead unrelentingly with the policy of incapacitating chronic offenders through long incarceration.

We are still permitting several hundred thousand chronic violent offenders to walk our streets.

We will not have a safer America until we get these violent offenders off the streets and into prison for longer terms.

This will require great commitment by the states.

More than 95% of violent crime falls under state and local responsibility, and so the battle against violent crime will be won or lost at the state and local level.

Pursuing a tough incarceration policy in the 1990's will require three things:

First, we must continue the substantial infusion of resources into law enforcement, particularly for building more prisons. We simply cannot get violent offenders off the street without more prison space.

Second, we must continue to press for critically needed reforms of our criminal justice system -- reforms that make punishment more swift, more certain, and more severe.

Third, we must be as aggressive as possible in using existing laws to target, convict and incarcerate for a long time the most hardcore violent offenders.

But the federal role is necessarily limited.

It is state and local law enforcement that is on the frontlines of the war against crime. As I said, over 95% of violent crime in this nation is investigated, prosecuted and punished at the state and local level.

Combatting violent crime is, and must remain, principally a state and local responsibility.

Across the country, the police and the prosecutors are doing a superb job. They are capturing and convicting serious criminal offenders. But, in many jurisdictions, they just don't have the room in their jails and prisons to keep them off the streets.

In my view, at the state level, the most critical obstacle we face to reducing violent crime is the shortage of available prison space.

Faced with a shortage of prison space, some states -- instead of building more prisons -- are adopting what has been called a "turn-em-loose faster" approach.

They try to cycle prisoners through the system faster to

make room for the next wave, using probation, parole, shorter sentences, and early release -- "revolving door justice."

The results are predictable. Releasing violent offenders back on the streets simply means more crime.

Texas should stand as an example to any state tempted to opt for the revolving door, instead of building prisons.

In the 1980's to save money, Texas didn't build prisons. It adopted the "turn-em-loose-faster" approach.

The average term served dropped from 55% of sentences in 1980 to less than 15% by the end of the decade, and the number of parolees increased by 21 times.

As a result, during the 1980's while the crime rate dropped nationally, Texas' crime rate jumped by 29%, making Texas the second-highest state in crime.

The choice is clear: more prison space, or more crime!

Some might argue that we cannot afford to build more prisons; I say we cannot afford not to build more prisons.

While some focus on the cost of building and maintaining prison space, it is time we focused more on the costs of failing to provide prison space.

The Bureau of Justice statistics estimates that the total direct costs of crime such as economic loss to victims is \$18.75 Billion annually. When indirect costs such as justice system costs and victim pain and suffering are included, the total rises to \$92 billion a year. And neither of these estimates account for macro-losses to society such as lost sales, lost jobs and lost revenues.

An ATF study of armed career criminals estimated that their crimes cost society \$386,000 each for every year they were on the streets, whereas it costs only \$20,000 a year to incarcerate them.

Spending money on prisons is not only the morally right thing to do; it is the economically right thing to do.

While spending money on prisons involves a sacrifice in these fiscally tight times, states must make this investment if we are to have any hope of reducing violent crime and thus providing an environment within which -- and a foundation upon which -- our social programs can work.

And that brings me to my third point.

As I said at the outset, law enforcement cannot solve the problem of violent crime alone. We need social revitalization in crime ridden communities. But what type of social programs are we talking about? How do we go about this work of rebuilding our communities?

Some argue that it's simply a matter of putting more money in our social programs. I disagree.

I don't think that the problem has been the amount of our social spending. We as a society have been willing to invest substantial sums in social programs. Indeed, over the past 25 years we have plowed trillions of dollars into our cities precisely in an effort to attack the root causes of crime.

And what have we purchased with these trillions of dollars? Have we purchased safer communities? Have we purchased a better quality of life in these communities? No.

Poverty appears to be as stubborn as ever. Illegitimacy and the number of single parent families among the poor have soared. Marriage, school attendance and employment have dropped. Crime has increased. These are the returns on our social spending investment.

The problem has been not how much we are spending; the problem has been how we are spending it. In other words, the problem is not the scale of our programs. It is the structure of our programs. Simply put, we must get smarter about how we spend our social service dollars.

A key shortcoming in the past has been precisely the failure to coordinate and integrate our social programs with law enforcement.

We have had for the past 25 years many social agencies, including the Departments of Labor, HUD, HHS, education, each with their own grant programs, spewing their money out into the country without any regard for what is happening on the law enforcement side.

And on the law enforcement side, we have had LEAA and other grant-making institutions putting police cruisers, communications gear and other law enforcement assets into communities without any regard to whether there were any programs out there to support them.

The challenge of the 90's is to link these efforts up -- to deploy and focus both our law enforcement assets and our social resources at the same time, in the same place, in a mutually reinforcing way.

And to accomplish this, the President has launched the "Weed and Seed" program. The program is currently underway in several pilot cities, and we've just expanded it to 16 additional cities, from Los Angeles to Madison, Wisconsin to Richmond, Virginia.

The President is seeking a substantial expansion of the Weed and Seed program in his budget for next year -- he is requesting \$500 million for the program.

Weed and Seed is not so much a new spending program as a method of operating. It is a comprehensive, multi-agency approach to combatting violent crime in some of the hardest hit neighborhoods in America's cities, in order to assist the residents in taking back their streets and rebuilding their communities.

Here's how it works. As the first step, the federal, state and local law enforcement integrate and focus their efforts within a particular neighborhood and, working with the community, "weed out" the violent offenders, the gangs, and the drug traffickers.

And then as the streets are reclaimed from the criminals, intensive community policing is put into place so that the ground once taken is held.

And finally, the broad panoply of federal, state, and local government and private sector community revitalization programs are brought to bear and focused to "seed in" long term stability and growth.

Drug prevention programs, head start, job training, health care programs, community development grants, all are applied together and in a coherent way, in one place, that is supported by law enforcement.

The President's FY 1993 "Weed and Seed" proposal to Congress also calls for the creation of federal enterprise zones to be used as an integral part of the program. Giving targeted neighborhoods enterprise zone status will stimulate the reemergence of community economic life through investment and local entrepreneurial activity.

Our goal is not to perpetuate dependency, but to foster bottom up economic growth -- to prime the pump and create an environment in which the community's own resourcefulness can take off.

The Weed and Seed program thus provides, I believe, a sound strategy for reclaiming our neighborhoods. It is a strategy that combines tough law enforcement with physical, economic and moral revitalization.

In sum, my message today is threefold:

1. The only way to reduce violent crime in our society is to incapacitate chronic violent offenders through a tough policy of incarceration. Revolving door justice simply leads to more crime.
2. While the federal government can help in the war on violent crime in limited ways, ultimately the answer is for states to toughen their criminal justice systems.
3. And finally, while it is true that law enforcement cannot do the job alone, social programs cannot be pursued at the expense of tough law enforcement. We must be smarter about how we pursue social programs. We must integrate them with law enforcement activity and ensure that rather than fostering dependency, we stimulate the community's own resourcefulness.

Thank you very much.

#

I HAVE A BRIEF STATEMENT ON THE SITUATION IN LOS ANGELES.

THE VERDICTS YESTERDAY ON STATE CHARGES ARE NOT THE END OF THIS PROCESS.

THE DEPARTMENT OF JUSTICE IS RESPONSIBLE FOR ENFORCING FEDERAL CIVIL RIGHTS LAWS, AND WE WILL DO SO VIGOROUSLY.

THE DEPARTMENT AND THE FBI HAVE BEEN CLOSELY MONITORING THE LOS ANGELES CASE SINCE THE INCIDENT OCCURRED.

AS IS OUR ESTABLISHED PRACTICE IN SUCH CASES WE DEFERRED ACTION WHILE THE STATE COMPLETED ITS PROCEEDINGS.

WE HAVE NOW MOVED FORWARD WITH OUR OWN FEDERAL INVESTIGATION OF THIS INCIDENT TO DETERMINE WHETHER THERE WAS A VIOLATION OF THE CIVIL RIGHTS LAWS. WE BEGAN THAT PROCESS LAST NIGHT, IMMEDIATELY AFTER THE VERDICTS WERE RETURNED.

THAT INVESTIGATION WILL BE CARRIED OUT JOINTLY BY THE CIVIL RIGHTS DIVISION AND THE UNITED STATES ATTORNEY'S OFFICE IN LOS ANGELES AND THE FEDERAL BUREAU OF INVESTIGATION. I HAVE INSTRUCTED THEM TO COMPLETE THIS REVIEW AS QUICKLY AS POSSIBLE.

I HAVE ASKED ASSOCIATE ATTORNEY GENERAL WAYNE BUDD TO PERSONALLY OVERSEE THE INVESTIGATION.

I HAVE ASKED THE ASSOCIATION ATTORNEY GENERAL TO GO TO LOS ANGELES TO MEET WITH ALL THE DOJ COMPONENTS ON THE SCENE TO ENSURE THE INVESTIGATION IS BEING PURSUED AS EXPEDITIOUSLY AS POSSIBLE; AND ALSO TO COORDINATE WITH GOVERNOR WILSON AND MAYOR BRADLEY WITH RESPECT TO ANY FURTHER ASSISTANCE.

I JOIN THE PRESIDENT, LOCAL OFFICIALS AND COMMUNITY LEADERS IN CALLING ON ALL AMERICANS TO OBEY THE LAW.

WE TAKE WITH GRAVEST CONCERN ANY ALLEGATION OF POLICE BRUTALITY, AND -- AS I SAID -- WE WILL PURSUE THIS PARTICULAR ALLEGATION AGGRESSIVELY.

AT THE SAME TIME, WE CANNOT TOLERATE PUBLIC VIOLENCE AND LAWLESSNESS. IT IS IMPERATIVE THAT THIS VIOLENCE COME TO AN END IMMEDIATELY.

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(Q & A'S FOLLOWED)



Department of Justice

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE ATTORNEY GENERAL'S SUMMIT ON CORRECTIONS:
"EXPANDING CAPACITY FOR SERIOUS OFFENDERS"

RITZ CARLTON HOTEL
MCLEAN, VIRGINIA

APRIL 27, 1992

Good morning and welcome.

Thank you all for taking time out from your busy schedules to participate in this summit.

I know we at the Department of Justice are going to benefit greatly from this opportunity to exchange ideas with this distinguished and select group.

I hope that each of you will find these next two days rewarding as well.

Last year, the attorney general held a summit on violent crime.

It was a wide-ranging conference, touching on a broad spectrum of issues -- all related to combatting violent crime.

That conference was very productive.

I know it stimulated ideas and actions in a number of communities.

This year, I thought it would be useful to focus the summit on a particular -- but critical -- aspect of the violent crime problem.

The theme of this summit is: "Expanding Capacity For Serious Offenders."

The focus of this summit is the serious violent offender -- the chronic predator -- and the challenge that we face in ensuring that there will be sufficient capacity in our jails and prisons to handle these dangerous offenders effectively.

I.

Let me say at the outset, that no one -- least of all those of us in law enforcement -- is under the illusion that we can solve the problem of crime in America simply by locking people up.

We all recognize that to make long term reductions in crime we need to take steps to rebuild our communities and those institutions -- the family, schools, religious institutions and community groups -- that instill values in our youth.

But these institutions, and the social programs that are designed to assist them, cannot succeed in an atmosphere of crime and violence.

It is increasingly clear that tough law enforcement measures to make our communities safer are an absolute prerequisite for social programs to be successful.

Indeed, the problem today is that many of our efforts at revitalizing our urban communities are being strangled by crime.

Its hard to raise healthy families in housing projects overrun by drug traffickers.

Its hard for children to learn in schools dominated by violent gangs.

A primary task for law enforcement is to create the atmosphere in which social rehabilitation is possible.

This requires incapacitating the chronic violent offenders who prey upon society and who are responsible for so much of the violent crime that plagues our cities.

Now, not everyone who commits a crime -- even a violent crime -- automatically requires lengthy incarceration.

Some of the people who commit violent crimes are not habitual criminals.

Sometimes a kid gets into a brush or two with the law (an isolated theft, an assault) and then straightens out.

Sometimes, otherwise law-abiding adults act suddenly and explosively, maybe in the heat of passion, and commit a violent crime -- even a serious violent crime.

While they may be blameworthy, sometimes such offenders may not pose an on-going threat to society at large.

But we know there is another kind of criminal -- the chronic violent predator.

Study-after-study show that there is a small segment of our population who are habitual violent offenders.

Each of these career criminals commits a staggering number of crimes when they are out on the streets -- scores, indeed hundreds, of crimes per year.

Just by way of example, one study of 240 criminals found that they were responsible for half a million crimes over an eleven year period. Other studies show similar results.

This small group of chronic offenders is responsible for a disproportionate part of the predatory violence we see around us

-- the robberies, the burglaries, the rapes, and much of the murder.

You all know the profile.

These offenders typically start committing crimes when they are juveniles and keep on committing crimes as adults.

By now it is clear that they are largely incorrigible.

Recidivism is almost a certainty.

They commit new crimes when they are on bail, on probation, or on parole.

The evidence suggests that, by the third arrest or so, the repeat offender has embarked on a career of crime that will usually prove to be irreversible.

It is not until these chronic offenders reach their late 30's that we see any appreciable drop in their recidivism rates.

With this career criminal group, one thing is clear: The only time we know they are not committing crimes is when they are locked up.

Incarceration is the only effective way to prevent these predators from committing more crimes, and in my view, is the only acceptable response to protect society from such clear danger.

We can debate whether prison can rehabilitate an offender.

We can debate whether prison can deter an offender.

But it is beyond debate that prison incapacitates the chronic violent offender.

The more time these serious violent offenders are held in custody -- whether in prison or in jail -- the fewer violent crimes and victims there will be.

The more these serious violent offenders are prematurely released back onto the streets, the more violent crime and victims there will be.

What does this mean for our correctional system?

It means that the challenge we face is to identify and incapacitate these chronic violent offenders.

Now, I believe that for the most part we have identified them.

Most of these chronic offenders have been arrested numerous times.

Many have been convicted repeatedly.

Unfortunately, all too many are still on the streets because we have not been successful enough in incarcerating them for sufficient periods of time.

And, unfortunately, the reason, all too often, has been lack of adequate prison space.

We all know that in many jurisdictions many violent offenders are not being sentenced to prison because of the lack of prison space.

We know that in many jurisdictions violent offenders sentenced to prison are being paroled or otherwise released as early as possible because of space shortages.

We know that in many jurisdictions violent offenders cannot be detained prior to trial because jails are backed up with sentenced prisoners for whom there is no room in prison.

Today, we have 4.2 million people under some form of correctional control.

Almost 1.3 million are in jail or prison. The remaining roughly 3 million are in some form of non-custodial control or intermediate sanction.

Our objective as correctional officials must be to deal effectively with the full range of offenders.

This means ensuring that we are not using up scarce prison space for those who can more appropriately be dealt with in some other setting -- (and I will have more to say about the role of intermediate sanctions in a moment.)

But it also means that to protect society we must incapacitate for extended periods those chronic offenders who will victimize society whenever they are on the streets.

Our decisions as to these violent predators must be based on a realistic assessment of their danger to society.

We simply cannot let our decisions as to the punishment imposed on these individuals to be dictated by a lack of prison capacity.

All too often today, decisions on incarceration of violent offenders are being made on precisely that basis -- with devastating results for public safety.

The challenge before us in the 1990's, is to ensure that we have sufficient capacity so that when we catch a chronic violent offender we have the ability to incarcerate that individual for a length of time dictated by the public's safety -- and not be compelled to release that individual prematurely simply because there is no room at the inn.

II.

As we move into the 1990's how do we address this situation?

In this time of scarce resources and tight budgets, how will we ensure that we have sufficient prison capacity to deal effectively with dangerous violent offenders?

It seems to me that we have three major tasks before us.

First, we must ensure that we are allocating our existing resources as effectively and smartly as we can.

Second, we should do everything we can to operate our facilities and programs as efficiently as possible, cutting costs without compromising quality.

And third, we must look for ways to expand our capacity as economically as possible.

Let me briefly review each of these areas and identify what I think are some of the key issues that we will be examining over the next two days.

III.

First, as I said, we must explore ways to allocate our existing resources as efficiently and smartly as we can.

Each prison bed is a valuable resource.

It costs an average of \$21,000 a year to operate a prison bedspace.

A.

It is important that -- to the extent possible -- we use these scarce resources for dangerous or chronic offenders and

that we not fritter them away on non-serious offenders who do not pose a risk to the community.

That is why developing effective non-custodial control mechanisms as well as intermediate sanctions is so important.

If we can develop ways to effectively supervise and punish non-serious offenders without tying up prison space, then we will be better able to devote our valuable prison resources to dangerous or chronic offenders.

So it is extremely important that we continue to explore ways of managing less serious offenders.

For this reason, 18 months ago the Department of Justice hosted a national conference devoted entirely to the issue of intermediate sanctions.

And, as you can see from our agenda, we hope to devote substantial attention to intermediate sanctions at this summit.

Also, as I know many of you are aware, various department components are heavily involved in promoting alternative sanctions.

The National Institute of Corrections, the National Institute of Justice, and the Bureau of Justice Assistance all have a variety of programs underway that seek to enhance our capacity to manage less serious offenders.

I am looking forward at this summit to the exchange of ideas on alternative sanctions and methods of supervision.

Let me sound a note of caution.

As we consider alternative sanctions as a means of better allocating our existing resources, I think it is important that we not allow these approaches to be sold as something they are not.

With all the budget pressures that exist today, some public officials may be tempted to see alternative sanctions as a cheap and easy solution for the prison capacity crunch.

The lure of non-custodial options could become an excuse for not making needed investment in traditional correctional facilities and their operation.

So it is important that we keep alternatives in perspective.

Alternatives to traditional prison incarceration are appropriate for non-serious offenders.

They are not appropriate for chronic or dangerous violent offenders.

Moreover, as you know, many of these non-custodial alternatives may not be appreciably cheaper than custodial supervision in correctional facilities.

If carried out properly, with a view to public safety, supervision outside a facility may be just as expensive as supervision inside a lower-security facility.

And finally, I do not think we can hold out the prospect that we can liberate very much existing prison space by diverting non-serious offenders into alternative sanctions.

The fact is that we are probably not wasting much of our existing bedspace on people who should not be there.

93% Of all state prisoners and 88% of all federal prisoners are either recidivists or are currently serving a prison sentence for a violent offense.

So the notion that our prisons are full of people who should not be there is simply false. To the extent we can recapture any space from the current inmate population, I think it will be at the margin.

In that regard, while violent offenders should get priority, we still need some bedspace for other categories of offenders.

We still have to have the capacity to deter and punish drug traffickers.

Curtailling the drug trade is critical to freeing our communities from the grip of violence.

If we effectively de-criminalize drug trafficking by eliminating prison time as a sanction, we can make no progress in the drug war.

We also must retain some ability to incarcerate serious white collar criminals.

While perhaps not as physically threatening to the community, their crimes can still have a devastating impact -- as we recently saw in the s&l debacle.

White collar crimes may be those that are most deterrable by the prospect of prison time.

Nevertheless, with all that said, it is clear that we must allocate existing resources wisely to ensure that we are not wasting prison space on those who do not belong there.

Any effort to maximize prison capacity for violent offenders, must include careful consideration of intermediate sanctions and non-custodial supervision.

B.

As we look at the best allocation of existing resources, another major issue we should discuss is the space being taken up by criminal aliens.

Twenty-five percent of the inmates in federal prisons are non-U.S. citizens, as are a substantial number of those in state prisons and local jails.

The problem is particularly serious in some states, such as California, Texas, Florida, New York and Illinois.

We could free up thousands of prison beds if we got rid of those criminals who are not citizens and who have no right to be in the country.

I believe that we should pursue at least a four-prong attack on the problem of illegal aliens in our prisons.

First, the Department of Justice has recently stepped up enforcement efforts to stop illegal aliens at the border and to apprehend and rapidly deport those who have made it in.

This effort includes additional border patrol agents, additional criminal investigators, additional funding for equipment such as lighting, sensors and physical barriers, and a criminal alien tracking center to help identify and deport criminal aliens more rapidly.

We are also exploring legislative changes to make it possible to exclude or more quickly deport illegal aliens in certain circumstances.

Second, we are working on ways to speed up the processing of illegal aliens currently in prison so that they can be deported immediately upon completion of their sentence without having to be released into the community.

As you may know, we have taken steps to expand our in-facility processing, known as the Institutionalized Hearing Program, so that aliens are ready for deportation by the time their sentences are completed.

I will act vigorously to further expand that program.

Third, we should explore additional ways, without sacrificing public safety, to speed the removal of illegal aliens from our prisons.

We need to balance the need to punish illegal aliens who commit crimes with the reality of limited prison capacity and the need to use our scarce prison space for violent offenders.

In this regard, we should explore the possibility of making modest adjustments in sentences for aliens convicted of relatively less serious offenses, who have already served significant periods, and who are prepared to stipulate to immediate deportation.

This would free up the spaces they are currently occupying for more violent, chronic offenders.

Of course, any such system could only work if Congress passes significant penalties for illegal re-entry by any individual released.

Fourth, we should explore ways to make greater use of prisoner transfer -- sending alien prisoners to their home countries for completion of their sentences.

Today we are limited to situations where the prisoner consents to transfer.

One possibility would be to consider modest adjustments to sentences for prisoners who consent to such transfers.

This might induce a number of additional alien prisoners to consent to voluntary transfers.

I am also exploring the legal and policy issues raised by the involuntary transfer of illegal alien prisoners.

If a system of involuntary transfers could be successfully implemented, it could hold forth substantial promise for reducing the number of illegal aliens in our prison.

Again, any proposals in this area would require stiff penalties for illegal reentry.

IV.

Let me turn to the second major task before us -- making our facilities more operationally efficient.

We all know that the major cost of prison space is not its construction but its operation.

Construction represents only 3 to 5 percent of the real cost of prison over its lifetime.

As I said, average cost of operating each prison bed is \$21,000 a year.

It seems to me that we must do all we can to reduce these operational costs of our correctional institutions without sacrificing their security or their humaneness.

A.

In this regard, proper classification of prisoners is an area that deserves special attention.

The cost of incarcerating a prisoner can vary substantially depending on the security-level of the facility to which he is assigned. For example, the cost of maintaining a prisoner in a higher security facility may be 3 times the cost of maintaining that same prisoner in a correctional camp.

An important way to promote operational efficiency is for a correctional system to accurately classify and stratify its prisoners based on objective assessments of each prisoners risk of escape, risk of violence and other appropriate manageability and security factors.

Generally speaking, a prisoner should be assigned to the lowest level facility commensurate with this risk assessment.

Great operational cost savings can accrue to a correctional systems that assigns its inmates based on a sound classification scheme.

And so over the next two days we will be sharing experience and ideas on inmate classification.

B.

Another particularly acute operational problem is health care.

Some states now spend over \$7 dollars per inmate per year on health care.

This amounts to the taxpayers spending \$2,555 per year on health care for each prisoner. This is more than the average law-abiding citizen spends for health care for each family member.

There must be some common-sense ways to reduce these costs without compromising the essential human needs of inmates, and I know we will be discussing various options at this summit.

Moreover, with your help, the national institution of corrections and other justice department components can serve an ongoing role as a clearinghouse for information on ways to reduce these and other operational costs.

This function also can be served very well by some of the professional organizations that are represented here today.

The American Correctional Association, the American Jail Association, the Association of State Correctional Administrators, the National Association Of Blacks In Criminal Justice, and the American Probation and Parole Association and others have the expertise and ability in their ranks to help in this process as well.

C.

In addition to looking at ways to cut operational expenses, another way to reduce costs is to generate offsetting revenues, both by user fees and prison industries.

I believe user fees are an important tool.

They serve as a means to provide additional resources in a time of tight budget constraints.

They are also important as a matter of simple fairness. Taxpayers provide for prisoners' room, board, and medical care.

Law abiding citizens must pay for these necessities themselves.

It is only fair that prisoners pay a portion of these costs, whenever possible.

In addition, user fees may also be appropriate to help pay for inmate drug testing programs.

In this year's federal budget, we are including a proposal to fine prisoners for the cost of their first year of incarceration.

We anticipate recovering from approximately 9% of the inmates.

Prison work and prison industries are also important tools which we will be discussing over the next two days.

Requiring inmates to work is consistent with the punitive function of imprisonment.

More positively, it also teaches discipline and prepares inmates for reintegration into the community.

There are also indications that prison work may assist in reducing crime by lowering recidivism rates.

And, prison work can be an extremely important means of reducing costs and generating offsetting revenues.

Inmates can maintain the facility itself, and can perform such tasks as sorting trash for recycling and doing nonhazardous environmental clean up in parks, and other areas.

Inmates working in prison industries can produce a variety of products for use in the prison to save money, or for sale to help generate revenues.

Our challenge is to find suitable projects for inmates to help teach useful skills and a sense of responsibility, and to generate revenues to offset the costs of incarceration, without reducing the opportunities for employment for law abiding workers.

D.

Another factor that affects operational expenses is litigation.

I realize that the ability of many states to manage their own prisons and jails efficiently has been hampered by the involvement of courts in their day-to-day operations.

The 1970's and 1980's saw a flood of litigation, particularly in the federal courts, by prisoners challenging the conditions in state and local facilities as a violation of the U.S. Constitution.

During this period, many lower courts mistakenly applied a vague "totality of the circumstances" or "overall conditions" standard to find that states were in violation of the Constitution.

Many courts during this period went far beyond what the Constitution requires, or even permits, in remedying purported

constitutional violations -- specifying the particulars of prisoners' diets, food temperature, exercise, visitation rights and health care.

Some courts even went so far as to require court approval of the design plans for new prisons.

Worse still, some courts imposed caps on the population of state and local facilities, forcing cities and states to turn loose violent offenders.

In my view, it is not the role of judges or court-appointed special masters to run prisons.

Rather, the appropriate role of the federal courts is to adjudicate specific disputes concerning alleged constitutional violations, and otherwise to leave the management of prisons and jails to local correctional professionals.

That means several things.

First, federal courts should interfere only to remedy specific constitutional violations.

They should not insist upon compliance with a set of standards or any other level of comfort not required by the Constitution.

Second, once a state has remedied the specific constitutional violation identified by the court, the court's involvement should end.

Once a violation has been cured, control and management of the prison should be returned to the appropriate state officials.

Third, the Department of Justice will not use the federal courts to impose burdens that go beyond what is required by the constitution.

Finally, it is wrong for courts to impose an arbitrary population cap based on the now-rejected legal theory that the "totality of the circumstances" in the prison require a cap.

The proper approach is for the court to order that the specific constitutional violations identified be remedied, not to require the state to release dangerous criminals back onto the streets.

I have already begun to implement these new policies in litigation in which the United States is a party.

In Texas, for example, I announced that I support Attorney General Dan Morales' motion to terminate the 20-year-old Ruiz litigation without any permanent court-imposed limitations on the operation of Texas prisons.

I reiterate today my belief that the Ruiz litigation should be terminated.

I have also been working closely with Governor Engler and Attorney General Kelley in Michigan, as well as with Ken McGinnis, the Director of Corrections in Michigan, to bring to a close federal-court litigation concerning several of Michigan's largest prisons.

In appropriate cases, I am also willing to lend a hand to states and localities tied up in litigation in which the Department is neither a party nor an intervenor.

Just last week, the Justice Department filed papers as Amicus Curiae urging the federal district court in Philadelphia to lift a cap on the population of Philadelphia's jails that is wreaking havoc on public safety.

Let me add, however, two brief observations.

First, some people have said that if we remove existing population caps and other extra-constitutional limitations on state prisons, the conditions in some prisons will lapse into the dark ages.

I am confident that will not happen.

By and large, the people who work in corrections today are top-notch professionals, and they have no interest in seeing conditions in prisons deteriorate.

In choosing whether to get involved in lifting existing court-imposed conditions, I have placed great reliance on the professionalism of the people involved.

Of course, if constitutional violations recur, inmates are free to vindicate their rights in court, and in appropriate case, the United States remains ready, willing, and able to vindicate prisoners rights.

Second, frankly, one of the positive effects of population caps has been to force state legislatures to make appropriate investment in prisons.

While that salutary effect does not justify the unwarranted intrusion of a court-imposed population cap, nor should the

lifting of these caps be seen as a substitute for investing more in corrections.

We cannot allow the lifting of caps to become an excuse for public officials to fail to invest in needed new capacity.

Any state that thinks that it is sufficient simply to pack more criminals into existing space is likely to end up right back in the middle of burdensome litigation.

V.

The third major area we will be examining at this summit is how we can expand our prison capacity most efficiently.

The average cost of constructing a new prison bed is \$53,000.

We should look for ways to reduce the cost of construction.

Innovative design can play a critical role.

Not only can smart plans cut the direct costs of construction, they can also -- through staff-efficient designs -- substantially reduce operational costs over the life of the facility.

In my view, the national institute of corrections and other justice assistance components, are uniquely positioned to expand their existing clearinghouse functions regarding prison construction, and I have asked them to do so.

We will also be discussing enhancing the process for making closed military bases and other surplus federal properties available to states and localities for use as prisons.

This is an idea that the Department has supported and pursued itself for a portion of the Bureau of Prisons' expansion program.

Moreover, the military can provide more than just property. Recent reductions in military personnel have freed up thousands of highly professional, highly trained men and women who can be recruited into the field of corrections.

I strongly encourage state corrections officials to contact local military offices to inquire into the availability of recently-discharged personnel.

Programs like the defense outplacement referral service for civilian DOD employees and the centralized applicant referral

service for uniformed personnel, can be used to good effect, as can increased use of targeted recruiting at military bases.

I pledge the assistance of the Justice Department in following through on ideas that may be developed during this summit for further uses for closed military bases or former military personnel.

Finally, we will also discuss a variety of potential approaches to the concept of regional prisons managed by consortia of states or even private entities, and the potential costs savings that may be associated with those approaches.

VI.

So it clear that our agenda over the next two days is a broad one.

But even as we spend our time looking at better allocation of existing resources, opportunities for more efficient operations, and approaches for cost-effective expansion -- it seems to me that we have one overarching and critical challenge in the years ahead.

We must remind our fellow citizens and our leaders of the importance of investing adequate resources in correctional systems.

Some people say that we cannot afford to invest more in corrections, I say we cannot afford not to invest more in corrections.

While some focus on the cost of building and maintaining prison space, I think it is time we focused on the costs of failing to provide adequate prison space.

Simply put, prisons are a sound investment.

The premature release of violent offenders costs society far more than the expense of building and operating adequate prison space.

Although incarceration is not cheap, the cost to society of not incarcerating dangerous criminals is far greater.

A study published in 1988 by Mark Cohen, formerly on the staff of the U.S. Sentencing Commission, estimated the annual aggregate cost of crime to victims -- including direct losses, pain and suffering and risk of death -- at \$92.6 Billion in 1985 dollars.

And behind these dollars and cents is real-life suffering.

Let me give you one recent example of the price we pay for not keeping a dangerous criminal in prison.

Just this month, in one state a "model prisoner" was paroled after he served 10 years on a 30 year sentence for two aggravated sexual assaults and robbery.

Within 5 months of his release into an intensively supervised parole program, this parolee was arrested and charged with the brutal killings of 5 women and the aggravated assault and attempted murder of two other women.

This is perhaps an extreme example; lets hope so.

But we simply cannot close our eyes to the extremely high recidivism rates among probationers and parolees.

We cannot ignore the fact that at least 30% of murders, 25% of rapes and nearly 40% of robberies are committed by persons on bail, probation or parole.

The costs of keeping violent predators in custody is far less than the terrible toll they exact on the streets.

And let's not forget the high costs that premature release of violent offenders imposes on the criminal justice process itself.

Much of the police and judicial resources we spend in catching, investigating, and trying offenders are frittered away as the offenders are prematurely let go --simply to be recycled through the system yet again.

And there are other costs we sometimes don't think about.

If we don't pay to put the bars up around predators, then the victims pay to put the bars up around themselves.

I have visited many inner-city neighborhoods around the country in recent weeks as part of our Weed and Seed program.

I've seen row-upon-row of houses surrounded by bars -- bars on the windows'; bars around the porches; bars over the doors.

The amount of money we as a society spend on these and other security measures -- essentially making ourselves prisoners -- is staggering.

And then there are the incalculable, yet far larger costs to society of crime, such as lost sales, when people are afraid to go out to do their shopping; lost jobs, when businesses move out

of high-crime areas; lost opportunities, when schools become the playground of gangs and drug dealers, rather than places where inner-city kids can learn their way out of poverty; and lost tax revenues, when sales, businesses and jobs evaporate.

And so, when we stop to think about it, it becomes clear that investing in adequate prison space is not only the morally right thing to do, it is also the economically right thing to do.

And yet, despite the enormous need for additional prison space, spending on corrections remains a very small percentage of state and local budgets.

In fiscal year 1990, only 2.5% of the spending by state and local governments was for corrections (about \$24.7 Billion).

In innumerable other areas, we as a society have recognized the need to invest substantial resources in order to avoid the risk of harm.

-- For example, we invest tens of billions of dollars to reduce the loss of life in car crashes, including investment in highway barriers and safety devices.

-- Or we spend tens of billions a year to regulate air quality and billions to regulate hazardous waste disposal, in order to avoid the harm caused by exposure to pollutants and toxins.

-- We spend billions on asbestos removal alone.

The public appears to accept the need for these substantial expenditures, even though some of them guard against relatively speculative or remote harms.

We are willing as a society to spend millions just to avert one premature death.

For example, each year statewide periodic motor vehicle inspection programs cost \$12.6 Million per each life saved.

Various academic surveys of people's willingness to pay to avoid risks of death indicate that public spending of up to \$2.6 Million to avert one death would be justified.

If we applied the same logic -- and cost/benefit analysis -- used in our other public health and safety programs to corrections, we would be investing much greater amounts in corrections.

As I pointed out earlier, at least 6,500 homicides are committed each year by persons on bail, probation or parole.

Using the \$2.6 Million per life saved figure, would mean, if we used the logic of other programs, spending \$17 billion to avert these homicides. This would almost double what we are spending now on corrections, and this does not take into account all the other non-lethal crimes to be averted -- the burglaries, rapes, assaults and robberies.

Obviously, I am not suggesting that we double our corrections budgets.

But I am saying that the notion that we cannot afford to spend more on corrections is flatly wrong.

VII.

In closing, let me say what I said at the outset. Law enforcement cannot solve the problem of violent crime alone.

Rather, the long term solution to the problem of crime in America is a coordinated approach designed to strengthen social institutions and allow law abiding people to reclaim their communities.

But the foundation to the success of any such approach must be removing the chronic violent offender from the streets, so that we have an atmosphere in which social rehabilitation is possible.

The challenge to those of us in the corrections community is to provide the necessary prison capacity to incapacitate these violent predators.

Without this capacity, real progress in reducing crime simply is not possible.

Without this capacity, social rehabilitation cannot occur.

And, without this capacity, it is the law abiding citizens, rather than the criminals, who will be living behind bars.

This summit can play an important role in meeting this challenge.

We are all in this together.

We all face daunting tasks with scarce resources.

But I think the evidence is clear that the investment needed to expand prison capacity is one that we, as a society, cannot afford not to make.

ROSE GARDEN VICTIMS RIGHTS WEEK CEREMONY

FRIDAY, APRIL 24, 1992

THANK YOU, MR. PRESIDENT. IT'S AN HONOR TO JOIN YOU IN OBSERVING NATIONAL CRIME VICTIMS RIGHTS WEEK, AND TO RECOGNIZE THESE EIGHT INDIVIDUALS HERE TODAY.

THOSE IN THE VICTIMS RIGHTS MOVEMENT KNOW OF YOUR PERSONAL COMMITMENT TO VICTIMS RIGHTS MR. PRESIDENT. UNDER YOUR LEADERSHIP, THE DEPARTMENT OF JUSTICE PROVIDES SUBSTANTIAL FUNDING TO STATE AND LOCAL VICTIMS ASSISTANCE PROGRAMS; LITIGATES TO PROTECT VICTIMS RIGHTS; AND WORKS DIRECTLY TO ENSURE THAT VICTIMS ARE INFORMED ABOUT AND RECEIVE THE SUPPORTIVE TREATMENT TO WHICH THEY ARE ENTITLED IN THE CRIMINAL JUSTICE PROCESS.

ONE OF THE GREATEST HOPES OF CRIME VICTIMS, MR. PRESIDENT, IS THAT THERE BE FEWER VICTIMS OF CRIME IN THE FUTURE. OTHERS SHOULD NOT HAVE TO SUFFER THE WAY THEY HAVE. THAT'S WHY VICTIMS APPRECIATE YOUR STRONG LAW ENFORCEMENT PROGRAM.

NOW LET ME CALL UP THE INDIVIDUALS WE HONOR THIS YEAR WHO HAVE WORKED SO HARD TO ADVANCE THE CAUSE OF VICTIMS' RIGHTS:

JUDGE RICHARD BARAJAS (BAH-RAH-HAS) - IN 1987, IN RESPONSE TO THE GANG MURDER OF HIS BROTHER, JUSTICE BARAJAS LEFT HIS

PRIVATE LAW PRACTICE TO BECOME DISTRICT ATTORNEY IN TEXAS. HE SET UP THE FIRST PROS-BASED VICTIMS ASSISTANCE CENTER IN RURAL WEST TEXAS. IN 1991, HE WAS APPOINTED TO BE STATE COURT OF APPEALS JUDGE. AN AUTHORITY ON VICTIMS MATTERS, JUSTICE BARAJAS CONTINUES TO PROMOTE VICTIMS RIGHTS AT BOTH THE STATE AND LOCAL LEVEL . . . JUSTICE BARAJAS.

COLLEEN THOMPSON CAMPBELL - MRS. CAMPBELL IS THE FOUNDER OF MEMORY OF VICTIMS EVERYWHERE (MOVE). A GRASSROOTS ORGANIZATION COMMITTED TO ADVANCING JUSTICE REFORM. HER ONLY SON WAS MURDERED IN 1982, AND SIX YEARS LATER, HER BROTHER AND HIS WIFE WERE ALSO MURDERED. MRS. CAMPBELL HELPED IN PASSAGE OF CALIFORNIA'S CRIME VICTIMS JUSTICE REFORM ACT AND HAS BEEN VERY ACTIVE IN THE FIGHT FOR FEDERAL ANTI-CRIME LEGISLATION . . . MRS. CAMPBELL.

ANITA ARMSTRONG DRUMMOND - MRS. ARMSTRONG DRUMMOND IS THE EXECUTIVE DIRECTOR OF THE ALABAMA CRIME VICTIMS COMPENSATION COMMISSION. UNDER HER PRO-ACTIVE LEADERSHIP THE COMMISSION HAS SPEARHEADED WIDE-RANGING REFORMS ON BEHALF OF VICTIMS. SHE IS A SEASONED VICTIMS ADVOCATE WITH EXTENSIVE KNOWLEDGE OF THE ISSUES FACED BY CRIME VICTIMS. SHE HAS WORKED MOST OFTEN WITH VICTIMS OF DOMESTIC ABUSE, INCEST AND SEXUAL ASSAULT . . . MRS. ARMSTRONG DRUMMOND.

RAY LARSON - AS COMMONWEALTH ATTORNEY, MR. LARSON ESTABLISHED THE MOST COMPREHENSIVE PROSECUTOR-BASED VICTIM

ASSISTANCE PROGRAM IN KENTUCKY, WHICH NOW SERVES AS A MODEL FOR OTHERS NATIONWIDE. IN 1991, MR. LARSON WAS ELECTED AS THE FIRST PRESIDENT OF THE KENTUCKY VICTIMS' COALITION, A GROUP FOUNDED TO GIVE CRIME VICTIMS A VOICE IN STATE GOVERNMENT . . . MR. LARSON.

TIBBY MILNE - SPURRED TO ACTION BY THE 1975 ABDUCTION OF A CHILD FROM HER HOMETOWN, MRS. MILNE HAS WORKED TIRELESSLY TO PROTECT OUR NATION'S CHILDREN. SHE FOUNDED THREE PROGRAMS: THE UTAH COUNCIL FOR CRIME PREVENTION; "MCGRUFF TRUCKS," OF WHICH THERE ARE OVER 7,000 NATIONALLY; AND "MCGRUFF HOUSES," OF WHICH THERE ARE NOW OVER 90,000 NATIONWIDE . . . MRS. MILNE.

AURELIA SANDS BELLE - MS. SANDS BELLE IS THE DIRECTOR OF THE VICTIM WITNESS PROGRAM IN ATLANTA. SHE HAS BEEN INSTRUMENTAL IN ESTABLISHING SERVICES FOR SURVIVORS OF HOMICIDE VICTIMS, AS WELL AS CHILD AND ELDERLY VICTIMS AND VICTIMS WHO ARE ETHNIC MINORITIES. UNDER HER LEADERSHIP, NEW MULTI-LINGUAL SERVICES HAVE BEEN PROVIDED FOR NON-ENGLISH-SPEAKING VICTIMS . . . MS. SANDS BELLE.

ANNE SEYMOUR - MS. SEYMOUR IS A FOUNDING STAFF MEMBER OF THE NATIONAL VICTIM CENTER, A HIGHLY EFFECTIVE NATIONAL ORGANIZATION. SHE HAS EFFECTIVELY SPEARHEADED EFFORTS TO PROMOTE CONSTITUTIONAL PROTECTIONS FOR VICTIMS. MS. SEYMOUR IS AN IMPASSIONED AND NATIONALLY RESPECTED PUBLIC SPOKESPERSON FOR VICTIM RIGHTS; HER

WORK IN THIS AREA ALONE HAS BROUGHT HER THE WIDESPREAD RESPECT
AND GRATITUDE OF VICTIMS . . . MS. SEYMOUR.

DR. MARLENE YOUNG - DR. YOUNG IS THE FOUNDER OF THE NATIONAL
ORGANIZATION FOR VICTIM ASSISTANCE. SHE IS AN AUTHOR AND
RENOWNED AUTHORITY IN THE FIELD OF VICTIMOLOGY. DR. YOUNG HAS
PROVIDED CRISIS INTERVENTION SERVICES TO ENTIRE COMMUNITIES
TRAUMATIZED IN THE AFTERMATH OF VIOLENT CRIMES, AND HAS TRAVELED
WIDELY TO HELP SET UP LOCAL VICTIMS PROGRAMS . . . DR. YOUNG.

ONCE AGAIN, CONGRATULATIONS TO ALL OUR AWARDEES TODAY.
THANK YOU, MR. PRESIDENT.

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REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

TO THE LEADERS OF VICTIMS GROUPS

ROSE BRIAR INN
PHILADELPHIA, PENNSYLVANIA

APRIL 23, 1992

THANK YOU LYNNE FOR INVITING ME TO BE HERE TODAY. THIS IS A VERY SPECIAL OCCASION FOR ALL WHO ARE CONCERNED ABOUT VICTIMS' RIGHTS. I KNOW THAT YOU LYNNE, MAYOR RENDELL, AND U.S. ATTORNEY MIKE BAYLSON ARE DEEPLY COMMITTED TO THE NEEDS OF CRIME VICTIMS AND THEIR FAMILIES. I KNOW THAT YOU HAVE DEDICATED YOURSELVES TO ENSURING THAT THE CRIMINAL JUSTICE SYSTEM SERVES THE INTERESTS OF VICTIMS.

I THINK EVERYONE HERE KNOWS AS WELL HOW DEEPLY COMMITTED THE BUSH ADMINISTRATION IS TO THE CONCERNS OF VICTIMS AND THEIR FAMILIES. TOMORROW MORNING I'LL BE JOINING THE PRESIDENT IN THE ROSE GARDEN TO MARK NATIONAL CRIME VICTIMS RIGHTS WEEK BY HONORING INDIVIDUALS WHO WORK TO ADVANCE THE CAUSE OF VICTIMS RIGHTS.

MORE TANGIBLY, THIS ADMINISTRATION IS SUPPORTING VICTIMS THROUGH DIRECT FINANCIAL ASSISTANCE -- IN THE FORM OF ONGOING FUNDING FOR VICTIMS' SERVICES AND VICTIMS' COMPENSATION. THE OFFICE FOR VICTIMS OF CRIME AT THE JUSTICE DEPARTMENT HAS BEEN AT THE FOREFRONT OF EFFORTS TO ASSIST AND PROVIDE FUNDING FOR LOCAL VICTIMS' PROGRAMS.

IN THE PAST SIX YEARS, THE DEPARTMENT HAS, THROUGH THE CRIME VICTIMS FUND, AWARDED PENNSYLVANIA OVER \$16.5 MILLION IN FUNDS FOR VICTIMS COMPENSATION -- SUCH AS HEALTH COSTS, LOST WAGES, AND FUNERAL EXPENSES -- AND SERVICES SUCH AS COUNSELING, REFERRAL,

SHELTER AND EMERGENCY LEGAL ASSISTANCE. THIS YEAR, WE EXPECT TO AWARD ANOTHER \$3.4 MILLION.

ALSO, JUST LAST YEAR, THE ADMINISTRATION SUCCESSFULLY LED THE FIGHT FOR THE RIGHT OF THE VICTIMS' FAMILY MEMBERS TO MAKE VICTIM IMPACT STATEMENTS IN CAPITAL CASES. WE WON THAT RIGHT IN THE LANDMARK CASE OF PAYNE V. TENNESSEE. THIS ALLOWS VICTIMS TO MAKE KNOWN THE SUFFERING THEY HAVE EXPERIENCED AS A RESULT OF THE MURDER OF A LOVED ONE BEFORE JUDGEMENT IS PASSED ON THE DEFENDANT.

WE HAVE ALSO ACTED TO ENSURE THAT VICTIMS OF CRIME ARE INFORMED ABOUT THEIR RIGHTS WITHIN THE CRIMINAL JUSTICE SYSTEM. THE NEW FEDERAL CRIME VICTIMS BILL OF RIGHTS IS DISPLAYED BY THE DEPARTMENT IN U.S. ATTORNEY'S OFFICES NATIONWIDE, SO THAT VICTIMS OF FEDERAL CRIMES ARE FULLY AWARE OF THE COMPASSIONATE AND RESPONSIVE TREATMENT TO WHICH THEY ARE ENTITLED. AND LAST YEAR, WE CREATED SEPARATE VICTIM COORDINATOR POSITIONS WITHIN EACH U.S. ATTORNEY'S OFFICE TO WORK ON VICTIMS ISSUES AND TO WORK WITH VICTIMS THROUGH THE CRIMINAL PROCESS.

AND OF COURSE, THERE IS THIS NEW VICTIMS' RIGHTS CENTER. ALTHOUGH IT IS FUNDED IN PART WITH FEDERAL DOLLARS, THE REAL CREDIT GOES TO THE DISTRICT ATTORNEY'S OFFICE, WHICH PROVIDED THE START-UP MONIES FOR IT. LET ME STRESS, HOWEVER, THAT, IN ORDER FOR THE CENTER TO WORK WELL WITHIN THE COMMUNITY, IT NEEDS THE CONTINUED SUPPORT OF CIVIC AND BUSINESS LEADERS -- AND I HOPE

THAT EVERYONE HERE TODAY WILL DO WHAT THEY CAN TO BUILD THAT SUPPORT.

* * *

BESIDES HELPING VICTIMS OF CRIME, ANOTHER PART OF THE VICTIMS MOVEMENT AGENDA IS TO TRY TO PROTECT OTHERS FROM BECOMING NEW VICTIMS.

VICTIMS HOPE THAT OTHERS DO NOT HAVE TO SUFFER AS THEY HAVE.

THAT IS WHY STRONG LAW ENFORCEMENT IS SO IMPORTANT.

IT IS BECOMING MORE AND MORE CLEAR THAT MOST OF THE PREDATORY VIOLENCE ON OUR STREETS IS CAUSED BY A HARDCORE GROUP OF HABITUAL OFFENDERS.

THESE CHRONIC CRIMINALS ARE INCORRIGIBLE AND VICTIMIZE INNOCENT CITIZENS AS LONG AS THEY ARE ALLOWED TO ROAM OUR STREETS.

THEY COMMIT CRIMES WHEN THEY ARE OUT ON BAIL, WHEN THEY ARE ON PAROLE, OR WHEN THEY ARE GIVEN PROBATION OR EARLY RELEASE.

THE ONLY WAY WE CAN PROTECT THE PUBLIC FROM BEING VICTIMIZED IS BY GETTING THESE CHRONIC CRIMINALS OFF THE STREETS AND INTO JAIL.

NOW, PHILADELPHIA HAS A GREAT LAW ENFORCEMENT COMMUNITY.

IN THIS CITY -- FEDERAL, STATE AND LOCAL LAW ENFORCEMENT WORK IN CLOSE PARTNERSHIP TO FIGHT VIOLENT CRIME.

AND PROGRAMS SUCH AS THE VIOLENT TRAFFICKERS PROJECT, F.A.S.T., TRIGGERLOCK AND NOW OUR WEED AND SEED PROGRAM, HAVE HAD GREAT SUCCESSES.

BUT ALL THIS ENERGY AND EFFORT IS BEING UNDERMINED AND DEFEATED BECAUSE A FEDERAL COURT IS MICROMANAGING THE CITY'S JAIL AND HAS IMPOSED A PRISON CAP THAT IS COMPELLING THE RELEASE OUT INTO THE COMMUNITY OF DANGEROUS CRIMINALS WHO ARE VICTIMIZING INNOCENT CITIZENS.

THE FIRST DUTY OF GOVERNMENT IS TO PROTECT ITS CITIZENS FROM PREDATORY CRIMINALS.

IT IS A TRAVESTY WHEN THE POLICE, AFTER CATCHING A DANGEROUS CRIMINAL, ARE FORCED TO LET HIM GO KNOWING WITH MORAL CERTAINTY THAT HE WILL STRIKE AGAIN.

AND THAT IS EXACTLY WHAT IS HAPPENING.

LAST YEAR ALONE, 77 PRISONERS WHO PREVIOUSLY HAD BEEN

ORDERED RELEASED BECAUSE OF THE CAP WERE REARRESTED ON MURDER CHARGES.

851 PRISONERS PREVIOUSLY RELEASED UNDER THE CAP WERE REARRESTED FOR BURGLARY.

1,102 PRISONERS PREVIOUSLY RELEASED UNDER THE CAP WERE REARRESTED FOR ROBBERY.

1,193 PRISONERS PREVIOUSLY RELEASED UNDER THE CAP WERE REARRESTED ON DRUG CHARGES; 76 PERCENT OF ALL DEFENDANTS CHARGED WITH DRUG OFFENSES FAILED TO APPEAR FOR THEIR COURT HEARING, ACCORDING TO ONE STUDY OF A SAMPLE POPULATION.

THE CRIMES COMMITTED BY THESE RELEASED INMATES INCLUDE SOME OF THE MOST NOTORIOUS ACTS OF VIOLENCE COMMITTED IN THIS CITY. THEY INCLUDE, FOR EXAMPLE, THE MURDER OF ROOKIE PHILADELPHIA OFFICER DANIEL BOYLE, WHO WAS GUNNED DOWN BY THE DRIVER OF A STOLEN CAR WHO TWICE HAD BEEN ARRESTED AND RELEASED UNDER THE CAP.

WE ARE HONORED TO HAVE OFFICER BOYLE'S FATHER, DETECTIVE T. PATRICK BOYLE, HERE WITH US TODAY. HE WILL SPEAK TO US SHORTLY.

THESE STATISTICS ALSO INCLUDE VIVID ILLUSTRATIONS OF A SYSTEM THAT IS IN BREAKDOWN BECAUSE OF THE CAP. MOST OF YOU KNOW

(FROM STORIES IN THE PHILADELPHIA INQUIRER) THE SAGA OF ONE JEFFREY JONES, THE MAN FROM BROOKLYN WHO, UPON ARRIVAL IN PHILADELPHIA, BEGAN ROBBING BANK AFTER BANK AFTER BANK. EACH TIME HE WAS ARRESTED, HE WAS RELEASED AGAIN BECAUSE OF THE CAP. ONLY AFTER MR. JONES WAS CHARGED WITH A FEDERAL CRIME AND PLACED IN FEDERAL CUSTODY DID HIS ONE-MAN BANK ROBBERY SPREE COME TO AN END.

OR CONSIDER THE CASE OF J.W., WHO TYPIFIES THE ABSURDITY OF REVOLVING-DOOR JUSTICE. HE WAS ARRESTED 11 TIMES ON CHARGES INCLUDING ROBBERY, ASSAULT, AND THEFT. EACH TIME HE WAS ARRESTED UNDER THE CAP, AND EACH TIME HE FAILED TO APPEAR FOR EVERY SCHEDULED COURT DATE. ONLY AFTER THE 12TH ARREST WAS J.W. FINALLY HELD OVER.

THE RESULT OF THIS BREAKDOWN, AS THE CITIZENS CRIME COMMISSION RECENTLY WROTE IN A COURT BRIEF OPPOSING THE CAP, IS THAT "[A] NEW CLASS OF PERSONS [IS] CONFINED, NAMELY THE RESIDENTS OF POOR NEIGHBORHOODS, WHO ARE FORCED TO LOCK THEMSELVES IN THEIR HOMES WHILE THE INMATES PATROL THE STREETS."

I WANT TO COMMEND MAYOR RENDELL AND DISTRICT ATTORNEY ABRAHAM FOR THEIR LEADERSHIP IN TRYING TO END THIS JAIL CAP.

TODAY, WE ARE HERE TO PUT AN END TO THIS TRAGEDY. EARLIER THIS YEAR, I ANNOUNCED THAT THE DEPARTMENT OF JUSTICE OPPOSED JUDICIAL MICROMANAGEMENT OF STATE AND LOCAL CORRECTIONAL

FACILITIES. I OFFERED THE ASSISTANCE OF THE DEPARTMENT OF JUSTICE TO EFFORTS BY STATE OR LOCAL GOVERNMENTS TO MODIFY OR VACATE A COURT-ORDERED CAP ON INMATE POPULATION. I AM VERY PLEASED TO ANNOUNCE THAT THE DEPARTMENT OF JUSTICE IS TODAY FILING A BRIEF IN SUPPORT OF THE CITY OF PHILADELPHIA'S MOTION TO ELIMINATE THE CAP.

THE CAP HAS NO BASIS IN THE CONSTITUTION; IT IS WRONG AS A MATTER OF LAW, OF POLICY AND OF PUBLIC SAFETY. IT IS WREAKING HAVOC WITH PUBLIC SAFETY, AND VICTIMIZING INNOCENT PHILADELPHIANS. IT SHOULD BE REMOVED IMMEDIATELY.

WE ARE REALISTIC ABOUT THE LIKELY OUTCOME IN THE DISTRICT COURT BEFORE THE JUDGE WHO HAS IMPOSED THE PRISON CAP.

BUT WE ARE PREPARED TO MARCH SIDE-BY-SIDE WITH THE CITY OF PHILADELPHIA UP TO THE SUPREME COURT, IF NECESSARY, TO ACHIEVE VICTORY.

I BELIEVE WE WILL ULTIMATELY SUCCEED. I LOOK FORWARD TO THE DAY WHEN YOUR CASE LOAD WILL BE LIGHTER BECAUSE THERE WILL BE FEWER VICTIMS IN THIS GREAT CITY.

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April 24, 1992

Section: NATION

JUSTICE WILL FIGHT POPULATION LIMITS AT JAILS, BARR SAYS

Jerry Seper THE WASHINGTON TIMES

Attorney General William P. Barr yesterday said the Justice Department will support efforts by the city of Philadelphia to lift court-imposed limits on inmate populations at the city's jails.

In a speech during dedication ceremonies at a new victim-assistance center in Philadelphia, Mr. Barr said the department will file a "statement of interest" in support of a city motion to modify two consent decrees that put a cap on the city's jail population.

"The cap has no basis in the Constitution; it is wrong as a matter of law, of policy and of public safety," said Mr. Barr. "It is wreaking havoc with public safety and victimizing innocent Philadelphians. It should be removed immediately."

The court-ordered limit prevents the jailing of some criminal defendants and requires the release of others, including muggers, burglars, car thieves, bank robbers and armed drug dealers.

The department's statement of interest will seek three separate grounds for modification. They are: first, that modification is required because continued enforcement would be detrimental to the public interest; second, that significant changes in the law since the entry of the consent decrees warrant modification; and third, that federal court oversight of the Philadelphia jails is inappropriate in the absence of a finding of unconstitutional conditions.

"It is incumbent upon the Department of Justice to support those states that are operating their prisons in good faith compliance with the Constitution and that seek relief from the undue constraints of protracted prison litigation," said Mr. Barr.

Mr. Barr's decision to support Philadelphia officials in their effort to end court-ordered inmate limitations is in keeping with a new department policy announced by the attorney general in January.

At the time, Mr. Barr said the department opposed judicial micromanagement of state correctional facilities and would be prepared to assist states in regaining control over their prison systems.

The policy shift was announced during a speech to prosecutors in Palm Springs, Calif. Mr. Barr said court orders issued over the past 20 years had hampered the efficient operation of prisons and had "wrought havoc with the states' efforts to get criminals off the streets."

"The business of running prisons belongs to the appropriate state officials, not to federal judges and special masters," he said in the California speech.

Court orders governing prison conditions, including population levels, medical care, activity programs and diet, are in force in 45 states plus the District of Columbia, Guam and the Virgin Islands, according to figures compiled by the National Prison Project of the American Civil Liberties Union.

In the 1970s, the Justice Department frequently intervened on the side of inmates suing state prisons over conditions.

The Supreme Court in January made it easier for government officials to change court decrees requiring them to improve conditions at prisons. Under new guidelines announced by the court, officials must show that a significant change in facts or law makes the revision necessary. The old standard, set in 1932, limited changes to cases where "grievous wrong" would result if the court order continued.

The court's ruling stemmed from a case in Suffolk County, Mass., where a consent decree was issued in 1979 requiring pretrial inmates to be placed in single cells. Sheriff Robert Rufo requested a modification allowing two prisoners to a cell because of the rapidly growing jail population.

The lower courts refused, citing the 1932 Supreme Court ruling.

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---- **Index References** ----

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NewsRoom

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE THE

PITTSBURGH ROTARY CLUB

PITTSBURGH, PENNSYLVANIA

APRIL 22, 1992

TODAY I WANT TO TALK TO YOU ABOUT THE PROBLEM OF VIOLENT CRIME
IN OUR SOCIETY.

I DON'T HAVE TO TELL YOU THINGS ARE AT A GRAVE JUNCTURE. MANY
OF OUR NEIGHBORHOODS ARE IN A STATE OF SIEGE. I'VE HEARD ABOUT THE
TWO DRIVE-BY SHOOTINGS JUST IN THE LAST WEEK IN WILKENSBURG; AND
THE SIZE OF THE DRAGONE CASE.

INNOCENT, LAW-ABIDING CITIZENS ARE BEING DEPRIVED OF THEIR
FREEDOM. THEY ARE THE ONES WHO ARE FORCED TO LIVE BEHIND LOCKS AND
BARS -- HELD PRISONERS IN THEIR OWN HOMES.

IT IS THE VIOLENT PREDATORS WHO SEEM TO BE AT LIBERTY -- FREE
TO ROAM THE STREETS WITH IMPUNITY -- KILLING, TAKING WHAT THEY
WISH, AND TERRORIZING AT WILL.

WHAT CAN WE DO ABOUT VIOLENT CRIME?

THERE IS A TENDENCY IN PUBLIC DISCOURSE THESE DAYS TO DRAW A
DICHOTOMY BETWEEN TWO DIFFERENT APPROACHES TO DEALING WITH VIOLENT
CRIME.

ON THE OTHER HAND, THERE IS THE LAW ENFORCEMENT APPROACH.
THIS APPROACH TENDS TO SEE CRIME AS CAUSED BY CRIMINALS AND SEEKS
TO DETER, INTERDICT, OR INCAPACITATE THOSE CRIMINALS.

PROPONENTS OF THIS APPROACH CALL FOR MORE ENFORCEMENT ACTIVITY AND MORE SEVERE PUNISHMENTS.

ON THE OTHER HAND, THERE IS THE SOCIAL REHABILITATION RESPONSE TO VIOLENT CRIME. THIS SCHOOL TENDS TO SEE CRIME AS CAUSED BY SOCIETAL ILLS AND SEEKS TO DEAL WITH CRIME BY REMEDYING THESE ILLS THROUGH VARIOUS SOCIAL PROGRAMS.

PROPONENTS OF THIS APPROACH SAY THAT LAW ENFORCEMENT CANNOT SOLVE THE PROBLEM OF VIOLENT CRIME ALONE SIMPLY BY SUPPRESSION. THEY SAY WE MUST USE SOCIAL PROGRAMS TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

TODAY, I WANT TO MAKE THREE POINTS WHICH RELATE TO THIS TENSION BETWEEN A LAW ENFORCEMENT RESPONSE AND A SOCIAL PROGRAMS' RESPONSE TO VIOLENT CRIME.

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT, THESE DAYS, WE MUST GIVE PRIORITY TO A TOUGH LAW ENFORCEMENT APPROACH.

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL REHABILITATION SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE.

SO, LET ME TURN FIRST TO WHY I BELIEVE A TOUGH LAW ENFORCEMENT APPROACH MUST BE PARAMOUNT.

I RECOGNIZE THERE IS SOME TRUTH IN THE NOTION THAT LAW ENFORCEMENT CANNOT DO THE JOB ALONE.

I'VE FREQUENTLY SAID THAT ONLY AN APPROACH COMBINING TOUGH LAW ENFORCEMENT WITH THE ECONOMIC AND MORAL REVITALIZATION OF HIGH-CRIME AREAS OFFERS THE PROSPECT OF A SAFER AMERICA.

BUT THOSE WHO ADVOCATE DEALING WITH CRIME BY ATTACKING "ROOT CAUSES" ARE FREQUENTLY FAR OFF THE MARK.

ALL TOO OFTEN, THESE SOCIAL PROGRAM ADVOCATES HAVE PRESENTED THEIR PROPOSALS AS AN ALTERNATIVE TO TOUGH LAW ENFORCEMENT. MANY, IN FACT, ARE CRITICS OF STEPPING UP LAW ENFORCEMENT MEASURES -- WHICH THEY DISMISS AS PUNITIVE.

THEY OFFER SOCIAL PROGRAMS AS A SUBSTITUTE STRATEGY FOR WHAT THEY VIEW AS LAW ENFORCEMENT'S UNENLIGHTENED POLICIES OF SUPPRESSION.

THEY FREQUENTLY HAVE AS THEIR OBJECTIVE SHIFTING RESOURCES FROM LAW ENFORCEMENT TO SOCIAL PROGRAMS -- "LET'S NOT BUILD MORE PRISONS -- LET'S BUILD MORE SCHOOLS."

THIS THINKING IS FLATLY WRONG. WE MUST REJECT OUT-OF-HAND ANY NOTION THAT SOCIAL PROGRAMS ARE SOMEHOW A SUBSTITUTE FOR TOUGH LAW ENFORCEMENT POLICIES.

ON THE CONTRARY, IT IS INCREASINGLY CLEAR THAT TOUGH LAW ENFORCEMENT MEASURES ARE AN ABSOLUTE PREREQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

INDEED, THE PROBLEM TODAY IS THAT EFFORTS AT REVITALIZING OUR URBAN COMMUNITIES ARE BEING STRANGLING BY CRIME.

WHAT GOOD IS IT TO PUT A "MODEL SCHOOL" IN AN INNER CITY NEIGHBORHOOD IF THAT NEIGHBORHOOD IS A COMBAT ZONE WHERE STUDENTS ARE SHOT ON THEIR WAY TO SCHOOL? OR WHERE THERE ARE SHOOTOUTS IN THE CLASSROOMS?

WHAT GOOD IS IT TO OFFER JOB TRAINING PROGRAMS WHEN THE TRAINEES ARE AFRAID TO LEAVE THEIR HOMES?

IN THE CABRINI GREEN HOUSING PROJECT IN CHICAGO, A NUMBER OF EDUCATIONAL PROGRAMS ARE UNDERWAY. UNFORTUNATELY, THE CRIME PROBLEM THERE IS SO BAD THAT PARENTS ARE HAVING THEIR CHILDREN SLEEP IN BATHTUBS -- ESSENTIALLY ARMORED CRIBS -- TO PROTECT THEM FROM STRAY BULLETS IN GANG WARS.

IN SHORT, THE CRIME PROBLEM HAS REACHED THE POINT THAT ANY

EFFORTS AT SOCIAL REHABILITATION WILL BE SMOTHERED --
OVERWHELMED -- WITHOUT AGGRESSIVE STEPS TO SUPPRESS VIOLENT CRIME.

IT WAS ONCE A SHIBBOLETH THAT "POVERTY CAUSES CRIME" -- ALWAYS
A DEBATABLE PROPOSITION.

BUT -- TODAY -- WHAT IS BEYOND DEBATE IS THAT "CRIME CAUSES
POVERTY".

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN NEIGHBORHOODS TAKING
JOBS AND OPPORTUNITIES WITH THEM.

POTENTIAL INVESTORS AND WOULD-BE EMPLOYERS ARE SCARED AWAY.

POTENTIAL BUILDERS AND LANDLORDS ARE DISCOURAGED.

EXISTING OWNERS ARE DETERRED FROM MAKING IMPROVEMENTS.

AS PROPERTY VALUES GO DOWN, OWNERS DISINVEST.

I KNOW A SMALL CONTRACTOR WHO TRIED TO REHABILITATE INNER-CITY
HOUSING FOR LOW INCOME TENANTS. HE HAD TO GIVE UP BECAUSE DRUG
ADDICTS WOULD BREAK IN, RIP OUT IMPROVEMENTS AND SELL THEM FOR DRUG
MONEY. THEY WOULD EVEN TEAR OUT ALL THE PIPING ON A REGULAR BASIS
TO SELL IT FOR SCRAP.

YOU CANNOT HAVE PROGRESS AMID CHAOS.

NO SOCIETY HAS RENEWED ITSELF WITHOUT ORDER.

SOCIAL PROGRAMS ARE DOOMED TO FAILURE UNLESS WE GET CRIMINALS OFF THE STREETS.

AND THAT BRINGS ME TO MY SECOND POINT -- WHAT WE HAVE TO DO TO GET CRIMINALS OFF THE STREET.

MY PREDECESSOR USED TO SAY THAT, BEFORE WE CAN BECOME A KINDER AND GENTLER AMERICA, WE FIRST HAVE TO BE ROUGHER AND TOUGHER ON CRIME. HE WAS ABSOLUTELY RIGHT.

WE NEED TO GET A LOT TOUGHER IN DEALING WITH VIOLENT CRIME.

FROM A LAW ENFORCEMENT STANDPOINT, I DO NOT THINK THERE IS MUCH OF A MYSTERY AS TO WHAT THE PROBLEM IS.

THE PROBLEM OF VIOLENT CRIME IS LARGELY THE PROBLEM OF THE REPEAT OFFENDER.

STUDY AFTER STUDY SHOWS THAT THERE IS A TINY FRACTION OF THE POPULATION WHO ARE INCORRIGIBLE, CHRONIC OFFENDERS AND WHO COMMIT MOST OF THE PREDATORY VIOLENCE IN OUR SOCIETY.

A 1980 STUDY OF JUST 240 HABITUAL OFFENDERS FOUND THAT THIS SMALL GROUP WAS RESPONSIBLE FOR OVER 500,000 CRIMES OVER AN 11-YEAR PERIOD -- AN AVERAGE OF 190 CRIMES PER YEAR PER OFFENDER.

A 1982 RAND CORPORATION STUDY OF INMATES IN CALIFORNIA, MICHIGAN, AND TEXAS PRISONS FOUND THAT A QUARTER OF THE PRISONERS, WHILE OUT ON THE STREETS, HAD EACH BEEN COMMITTING OVER 135 CRIMES A YEAR, EXCLUDING DRUG DEALS.

IN OUR COUNTRY, WE HAVE WELL UNDER 1 PERCENT OF THE POPULATION -- PROBABLY ONLY HALF A PERCENT OF THE POPULATION -- COMMITTING THE VAST MAJORITY OF PREDATORY VIOLENT CRIMES.

WE KNOW THE PROFILE OF THESE CAREER CRIMINALS.

THEY START COMMITTING CRIMES AS JUVENILES; AND GO RIGHT ON COMMITTING CRIMES AS ADULTS.

WHEN ARRESTED AND RELEASED BEFORE TRIAL, THEY GO RIGHT ON COMMITTING CRIMES.

WHEN GIVEN PROBATION INSTEAD OF A PRISON TERM, THEY GO RIGHT ON COMMITTING CRIMES.

WHEN RELEASED FROM PRISON ON PAROLE OR EARLY RELEASE, THEY GO RIGHT ON COMMITTING CRIMES.

THE ONLY TIME WE ARE SURE THESE CHRONIC OFFENDERS ARE NOT COMMITTING CRIMES IS WHEN THEY ARE LOCKED UP IN PRISON.

AND THAT, IN A WORD, IS THE ANSWER.

IN MY VIEW, THE ONLY WAY THAT WE WILL BE ABLE TO REDUCE VIOLENT CRIME IS TO:

-- TARGET THESE CHRONIC OFFENDERS;

-- TAKE THEM OFF THE STREETS;

-- REMOVE THEM FROM SOCIETY AND INCAPACITATE THEM BY GIVING THEM ALONG PRISON SENTENCES AND KEEPING THEM LOCKED UP IN PRISON UNTIL THEY HAVE SERVED THEIR ENTIRE SENTENCE.

WE CAN DEBATE AD NAUSEAM ABOUT THE "ROOT CAUSES" OF CRIME. WE CAN DEBATE WHETHER PRISONS CAN REHABILITATE CRIMINALS. AND, WE CAN DEBATE THE EXTENT TO WHICH PRISONS DETER OFFENDERS.

BUT ONE THING CANNOT BE DEBATED: PRISON INCAPACITATES VIOLENT CRIMINALS.

FOR EVERY YEAR THAT A CHRONIC OFFENDER SITS IN HIS PRISON CELL, WE KNOW WITH MORAL CERTAINTY THAT THERE ARE SCORES, PERHAPS HUNDREDS, OF FEWER VIOLENT CRIMES BEING COMMITTED -- AND SCORES, PERHAPS HUNDREDS, FEWER VICTIMS ON OUR STREETS.

IN MY VIEW, IF WE WANT TO ACHIEVE ANY REDUCTION IN VIOLENT CRIME IN OUR SOCIETY IN OUR LIFETIME, AND IN OUR CHILDREN'S LIFETIME, THIS POLICY OF INCAPACITATING REPEAT OFFENDERS THROUGH INCARCERATION IS THE ONLY POLICY THAT HAS ANY PROSPECT OF SUCCESS.

INDEED, THE HISTORY OF THE LAST 30 YEARS SHOWS CLEARLY THAT A TOUGH INCARCERATION POLICY WORKS.

IN THE 1950'S WE HAD TOUGH INCARCERATION POLICIES, AND VIOLENT CRIME WAS HELD AT LOW LEVELS.

WE ABANDONED THESE TOUGH POLICIES IN THE 1960'S AND 1970'S.

THIS WAS THE ERA OF PERMISSIVENESS. CRIMINALS WERE VIEWED AS SOCIETY'S VICTIMS; NOT AS ITS VICTIMIZERS.

THE PREVAILING ATTITUDE WAS THAT THE ANSWER TO CRIME WAS NOT IMPRISONMENT, BUT MASSIVE SOCIAL SPENDING TO CURE THE PERCEIVED "ROOT CAUSES" OF CRIME.

AS A RESULT OF THIS PERMISSIVENESS -- DURING THE 1960'S AND EARLY 1970'S -- INCARCERATION RATES DROPPED SUBSTANTIALLY.

FEWER VIOLENT OFFENDERS WERE SENT TO PRISON. SENTENCES WERE SHORTER. THE OVERALL STATE PRISON POPULATION ACTUALLY DECLINED.

AND WHAT WAS THE RESULT? AS INCARCERATION RATES DROPPED,
VIOLENT CRIME SKYROCKETED.

INDEED, THE RATE OF VIOLENT CRIME MORE THAN DOUBLED IN THE
1960'S. BY THE END OF THE 1970'S IT HAD ALMOST QUADRUPLED.

THIS UNBELIEVABLE SPIRAL PEAKED IN 1980.

THAT YEAR -- 1980 -- WAS A WATERSHED. THE REACTION AGAINST
THE EXCESSES OF THE 1960'S AND 1970'S STARTED TO TAKE HOLD.

DURING THE 1980'S WE STARTED TO TOUGHEN UP OUR CRIMINAL
JUSTICE SYSTEM -- AT THE FEDERAL LEVEL AND IN SOME STATES -- WE HAD
BAIL REFORM AND PAROLE REFORM. WE GOT SURER AND STRONGER
SENTENCES.

PERHAPS MOST IMPORTANTLY, THE FEDERAL GOVERNMENT AND MANY
STATES MADE THE NECESSARY INVESTMENT TO BUILD NEW PRISON SPACE.

IN LINE WITH THESE TOUGHER POLICIES, THE INCARCERATION RATE
MORE THAN DOUBLED DURING THE 1980'S. IN THAT DECADE, THE TOTAL
PRISON POPULATION GREW FROM 305,000 IN 1980 TO 775,000 IN 1990.

AND WHAT WAS THE RESULT OF THESE TOUGHER POLICIES?

THE SPIRALING CRIME RATES OF THE 60'S AND 70'S WERE HALTED.

AFTER PEAKING IN 1980, THE CRIME RATE LEVELED OFF AND EVEN EDGED SLIGHTLY DOWNWARD FOR SEVERAL YEARS.

THE FBI'S UNIFORM CRIME REPORT SHOWS THIS LEVELING OFF DRAMATICALLY.

IN THE 60'S THE MURDER RATE CLIMBED 55%; IN THE 70'S IT ROSE 29%; IN THE 80'S IT ACTUALLY DROPPED BY 8%.

IN THE 60'S THE RATE OF AGGRAVATED ASSAULT AND ROBBERY INCREASED BY 187%; IN THE 1980'S IT INCREASED BY ONLY 2%.

THE NATIONAL CRIME VICTIMIZATION SURVEY OF THE BUREAU OF JUSTICE STATISTICS -- WHICH ESTIMATES BOTH REPORTED AND UNREPORTED CRIMES -- INDICATES THAT IN THE 1980'S RAPE DROPPED 29%, AGGRAVATED ASSAULT BY 11%, AND ROBBERY BY 17%.

THE NATIONAL EXPERIENCE HAS ALSO BEEN REFLECTED IN STATES THAT HAVE GOTTEN TOUGH. IN THE 1980'S, CALIFORNIA MORE THAN QUADRUPLED ITS PRISON POPULATION.

BY THE EARLY 1990'S, CALIFORNIA'S MURDER, RAPE, AND BURGLARY RATES HAD DROPPED BY 24% TO 37%.

WHAT ALL THIS SHOWS IS THAT THE TOUGH INCARCERATION POLICIES OF THE 1980'S WORKED.

WHILE THE VIOLENT CRIME RATE IS STILL UNACCEPTABLY HIGH, WE HAVE AT LEAST SEEN AN END TO THE DRAMATIC INCREASES THAT MARKED THE PREVIOUS TWO DECADES.

THIS IS A GREAT ACHIEVEMENT, AND WHAT MAKES IT REMARKABLE IS THAT IT WAS ACHIEVED AT THE HEIGHT OF THE CRACK COCAINE EPIDEMIC, WHICH HAS SPAWNED ITS OWN EPIDEMIC OF VIOLENCE.

AS BAD AS VIOLENT CRIME LEVELS ARE TODAY, IT IS HORRIFYING TO IMAGINE WHERE WE WOULD BE IF NOT FOR THE TOUGH INCARCERATION POLICIES OF THE 1980'S.

IN THE 1990'S WE CANNOT ALLOW A RETURN OF THE SPIRALING RATES OF THE 60'S AND 70'S.

NOR CAN WE BE CONTENT TO HOLD VIOLENT CRIME IN CHECK AT ITS ALREADY UNACCEPTABLY HIGH LEVELS.

WE MUST MAKE REAL PROGRESS TO REDUCE THE LEVEL OF VIOLENT CRIME.

THE CHOICE IS CLEAR. WE MUST PRESS AHEAD UNRELENTINGLY WITH THE POLICY OF INCAPACITATING CHRONIC OFFENDERS THROUGH LONG INCARCERATION.

IN THE 1980'S WE DID ABOUT HALF THE JOB.

IN THE 1990'S WE MUST FINISH THE JOB.

WE ARE STILL PERMITTING SEVERAL HUNDRED THOUSAND CHRONIC VIOLENT OFFENDERS TO WALK OUR STREETS.

WE WILL NOT HAVE A SAFER AMERICA UNTIL WE GET THESE VIOLENT OFFENDERS OFF THE STREETS AND INTO PRISON FOR LONGER TERMS.

THIS WILL REQUIRE A GREAT COMMITMENT BY THE STATES.

MORE THAN 95% OF VIOLENT CRIME FALLS UNDER STATE AND LOCAL RESPONSIBILITY, AND SO THE BATTLE AGAINST VIOLENT CRIME WILL BE WON OR LOST AT THE STATE AND LOCAL LEVEL.

PURSuing A TOUGH INCARCERATION POLICY IN THE 1990'S WILL REQUIRE THREE THINGS:

FIRST, WE MUST CONTINUE THE SUBSTANTIAL INFUSION OF RESOURCES INTO LAW ENFORCEMENT, PARTICULARLY FOR BUILDING MORE PRISONS. WE SIMPLY CANNOT GET VIOLENT OFFENDERS OFF THE STREET WITHOUT MORE PRISON SPACE.

SECOND, WE MUST CONTINUE TO PRESS FOR CRITICALLY NEEDED REFORMS OF OUR CRIMINAL JUSTICE SYSTEM -- REFORMS THAT MAKE PUNISHMENT MORE SWIFT, MORE CERTAIN, AND MORE SEVERE.

THIRD, WE MUST BE AS AGGRESSIVE AS POSSIBLE IN USING EXISTING LAWS TO TARGET, CONVICT AND INCARCERATE FOR A LONG TIME THE MOST HARDCORE VIOLENT OFFENDERS.

BUT THE FEDERAL ROLE IS NECESSARILY LIMITED.

IT IS STATE AND LOCAL LAW ENFORCEMENT THAT IS ON THE FRONTLINES OF THE WAR AGAINST CRIME. AS I SAID, OVER 95% OF VIOLENT CRIME IN THIS NATION IS INVESTIGATED, PROSECUTED AND PUNISHED AT THE STATE AND LOCAL LEVEL.

COMBATTING VIOLENT CRIME IS, AND MUST REMAIN, PRINCIPALLY A STATE AND LOCAL RESPONSIBILITY.

ACROSS THE COUNTRY, THE POLICE AND THE PROSECUTORS ARE DOING A SUPERB JOB. THEY ARE CAPTURING AND CONVICTING SERIOUS CRIMINAL OFFENDERS. BUT, IN MANY JURISDICTIONS, THEY JUST DON'T HAVE THE ROOM IN THEIR JAILS AND PRISONS TO KEEP THEM OFF THE STREETS.

IN MY VIEW, AT THE STATE LEVEL, THE MOST CRITICAL OBSTACLE WE FACE TO REDUCING VIOLENT CRIME IS THE SHORTAGE OF AVAILABLE PRISON SPACE.

FACED WITH A SHORTAGE OF PRISON SPACE, SOME STATES -- INSTEAD OF BUILDING MORE PRISONS -- ARE ADOPTING WHAT HAS BEEN CALLED A "TURN-EM-LOOSE FASTER" APPROACH.

THEY TRY TO CYCLE PRISONERS THROUGH THE SYSTEM FASTER TO MAKE ROOM FOR THE NEXT WAVE, USING PROBATION, PAROLE, SHORTER SENTENCES, AND EARLY RELEASE.

THESE STATES ARE BACKSLIDING. THEY ARE GOING BACK TO THE "REVOLVING DOOR JUSTICE" OF THE 1960'S AND 1970'S.

THE RESULTS ARE PREDICTABLE. RELEASING VIOLENT OFFENDERS BACK ON THE STREETS SIMPLY MEANS MORE CRIME.

TEXAS SHOULD STAND AS AN EXAMPLE TO ANY STATE TEMPTED TO OPT FOR THE REVOLVING DOOR, INSTEAD OF BUILDING PRISONS.

IN THE 1980'S TO SAVE MONEY, TEXAS DIDN'T BUILD PRISONS. IT ADOPTED THE "TURN-EM-LOOSE-FASTER" APPROACH.

THE AVERAGE TERM SERVED DROPPED FROM 55% OF SENTENCE IN 1980 TO LESS THAN 15% BY THE END OF THE DECADE, AND THE NUMBER OF PAROLEES INCREASED BY 21 TIMES.

AS A RESULT, DURING THE 1980'S WHILE THE CRIME RATE DROPPED NATIONALLY, TEXAS' CRIME RATE JUMPED BY 29%, MAKING TEXAS THE SECOND-HIGHEST STATE IN CRIME.

THE CHOICE IS CLEAR: MORE PRISON SPACE, OR MORE CRIME!

SOME MIGHT ARGUE THAT WE CANNOT AFFORD TO BUILD MORE PRISONS;
I SAY WE CANNOT AFFORD NOT TO BUILD MORE PRISONS.

WHILE SOME FOCUS ON THE COST OF BUILDING AND MAINTAINING
PRISON SPACE; IT IS TIME WE FOCUSED MORE ON THE COSTS OF FAILING TO
PROVIDE PRISON SPACE.

THE BUREAU OF JUSTICE STATISTICS ESTIMATES THAT THE TOTAL
DIRECT COSTS OF CRIME SUCH AS ECONOMIC LOSS TO VICTIMS IS \$18.75
BILLION ANNUALLY. WHEN INDIRECT COSTS SUCH AS JUSTICE SYSTEM COSTS
AND VICTIM PAIN AND SUFFERING ARE INCLUDED, THE TOTAL RISES TO \$92
BILLION A YEAR. AND NEITHER OF THESE ESTIMATES ACCOUNT FOR MACRO-
LOSSES TO SOCIETY SUCH AS LOST SALES, LOST JOBS AND LOST REVENUES.

THE ATF STUDY OF ARMED CAREER CRIMINALS THAT I MENTIONED
EARLIER ESTIMATED THAT THEIR CRIMES COST SOCIETY \$386,000 EACH FOR
EVERY YEAR THEY WERE ON THE STREETS, WHEREAS IT COSTS ONLY \$20,000
A YEAR TO INCARCERATE THEM.

NOW THERE ARE THOSE LOOKING FOR AN EASY WAY OUT, INSTEAD OF
BUILDING PRISONS.

WE HERE A LOT OF TALK THESE DAYS ABOUT ALTERNATIVES TO PRISONS
-- ELECTRONIC MONITORING, COMMUNITY HALF-WAY HOUSES, INTENSIVE
PAROLE, BOOT CAMPS.

LET ME BE CLEAR. THESE ARE NOT AN ALTERNATIVE TO BUILDING MORE PRISONS. THESE ALTERNATIVE SANCTIONS MAY BE WORTHWHILE FOR NON-VIOLENT OFFENDERS OR FIRST-TIME OFFENDERS. (AND LET ME ADD THAT, IF DONE RIGHT THEY WILL NOT BE MUCH CHEAPER, IF AT ALL.) BUT THESE ALTERNATIVE SANCTIONS ARE NOT APPROPRIATE FOR SERIOUS OR REPEAT VIOLENT OFFENDERS.

AND WE STILL -- IN MOST STATES -- LACK SUFFICIENT PRISON SPACE TO DEAL WITH THESE VIOLENT OFFENDERS.

SPENDING MONEY ON PRISONS IS NOT ONLY THE MORALLY RIGHT THING TO DO; IT IS THE ECONOMICALLY RIGHT THING TO DO.

WHILE SPENDING MONEY ON PRISONS INVOLVES A SACRIFICE IN THESE FISCALLY TIGHT TIMES, STATES MUST MAKE THIS INVESTMENT IF WE ARE TO HAVE ANY HOPE OF REDUCING VIOLENT CRIME AND THUS PROVIDING AN ENVIRONMENT WITHIN WHICH -- AND A FOUNDATION UPON WHICH -- OUR SOCIAL PROGRAMS CAN WORK.

AND THAT BRINGS ME TO MY THIRD POINT.

AS I SAID AT THE OUTSET, LAW ENFORCEMENT CANNOT SOLVE THE PROBLEM OF VIOLENT CRIME ALONE. WE NEED SOCIAL REVITALIZATION IN CRIME RIDDEN COMMUNITIES. BUT WHAT TYPE OF SOCIAL PROGRAMS ARE WE TALKING ABOUT? HOW DO WE GO ABOUT THIS WORK OF REBUILDING OUR COMMUNITIES?

SOME ARGUE THAT IT'S SIMPLY A MATTER OF PUTTING MORE MONEY IN OUR SOCIAL PROGRAMS. I DISAGREE.

I DON'T THINK THAT THE PROBLEM HAS BEEN THE AMOUNT OF OUR SOCIAL SPENDING. WE AS A SOCIETY HAVE BEEN WILLING TO INVEST SUBSTANTIAL SUMS IN SOCIAL PROGRAMS. INDEED, OVER THE PAST 25 YEARS WE HAVE PLOWED TRILLIONS OF DOLLARS INTO OUR CITIES PRECISELY IN AN EFFORT TO ATTACK THE ROOT CAUSES OF CRIME.

AND WHAT HAVE WE GOTTEN FOR THIS INVESTMENT? WHAT HAVE WE PURCHASED WITH THESE TRILLIONS OF DOLLARS? HAVE WE PURCHASED SAFER COMMUNITIES? HAVE WE PURCHASED A BETTER QUALITY OF LIFE IN THESE COMMUNITIES? NO.

POVERTY APPEARS TO BE AS STUBBORN AS EVER. ILLEGITIMACY AND THE NUMBER OF SINGLE PARENT FAMILIES AMONG THE POOR HAVE SOARED. MARRIAGE, SCHOOL ATTENDANCE AND EMPLOYMENT HAVE DROPPED. CRIME HAS INCREASED. THESE ARE THE RETURNS ON OUR SOCIAL SPENDING INVESTMENT.

THE PROBLEM HAS BEEN NOT HOW MUCH WE ARE SPENDING; THE PROBLEM HAS BEEN HOW WE ARE SPENDING IT. IN OTHER WORDS, THE PROBLEM IS NOT THE SCALE OF OUR PROGRAMS. IT IS THE STRUCTURE OF OUR PROGRAMS. SIMPLY PUT, WE MUST GET SMARTER ABOUT HOW WE SPEND OUR SOCIAL SERVICE DOLLARS.

A KEY SHORTCOMING IN THE PAST HAS BEEN PRECISELY THE FAILURE TO COORDINATE AND INTEGRATE OUR SOCIAL PROGRAMS WITH LAW ENFORCEMENT.

WE HAVE HAD FOR THE PAST 25 YEARS MANY SOCIAL AGENCIES, INCLUDING THE DEPARTMENTS OF LABOR, HUD, HHS, EDUCATION, EACH WITH THEIR OWN GRANT PROGRAMS, SPEWING THEIR MONEY OUT INTO THE COUNTRY WITHOUT ANY REGARD FOR WHAT IS HAPPENING ON THE LAW ENFORCEMENT SIDE.

AND ON THE LAW ENFORCEMENT SIDE, WE HAVE HAD LEAA AND OTHER GRANT-MAKING INSTITUTIONS PUTTING POLICE CRUISERS, COMMUNICATIONS GEAR AND OTHER LAW ENFORCEMENT ASSETS INTO COMMUNITIES WITHOUT ANY REGARD TO WHETHER THERE WERE ANY PROGRAMS OUT THERE TO SUPPORT THEM.

EDUCATION MAKES A HIGH-RISK YOUTH GRANT TO A NEIGHBORHOOD IN OUR CITY. HHS MAKES A DRUG PREVENTION GRANT -- THAT WOULD HAVE BEEN A GREAT COMPLEMENT TO THE YOUTH GRANT -- BUT MAKES IT TO A DIFFERENT NEIGHBORHOOD IN A DIFFERENT CITY. NEITHER NEIGHBORHOOD HAS AN EFFECTIVE LAW ENFORCEMENT PROGRAM UNDERWAY. AND MEANWHILE, A THIRD NEIGHBORHOOD IN A THIRD CITY STARTS UP AN EFFECTIVE COMMUNITY-BASED PROGRAM TO SUPPRESS CRIME BUT CAN'T GET SOCIAL SERVICES TO BACK IT UP. THE RESULT -- FAILURE IN ALL THREE NEIGHBORHOODS.

THE CHALLENGE OF THE 90'S IS TO LINK THESE EFFORTS UP -- TO DEPLOY AND FOCUS BOTH OUR LAW ENFORCEMENT ASSETS AND OUR SOCIAL RESOURCES AT THE SAME TIME, IN THE SAME PLACE, IN A MUTUALLY REINFORCING WAY.

AND TO ACCOMPLISH THIS, THE PRESIDENT HAS LAUNCHED THE "WEED AND SEED" PROGRAM. THE PROGRAM IS CURRENTLY UNDERWAY IN SEVERAL PILOT CITIES, AND WE'VE JUST EXPANDED IT TO 16 ADDITIONAL CITIES, INCLUDING PITTSBURGH. U.S. ATTORNEY TOM CORBETT IS SPEARHEADING OUR EFFORT TO TAKE BACK THE NEIGHBORHOOD IN _____.

THE PRESIDENT IS SEEKING A SUBSTANTIAL EXPANSION OF THE WEED AND SEED PROGRAM IN HIS BUDGET FOR NEXT YEAR -- HE IS REQUESTING \$500 MILLION FOR THE PROGRAM.

WEED AND SEED IS NO SO MUCH A NEW SPENDING PROGRAM AS A METHOD OF OPERATING. IT IS A COMPREHENSIVE, MULTI-AGENCY APPROACH TO COMBATTING VIOLENT CRIME IN SOME OF THE HARDEST HIT NEIGHBORHOODS IN AMERICA'S CITIES.

WEED AND SEED INVOLVES THE TARGETING OF SPECIFIC BESIEGED NEIGHBORHOODS AND THE FOCUSING OF RESOURCES TO ASSIST THE RESIDENTS TO TAKE BACK THEIR STREETS AND REBUILD THEIR COMMUNITIES.

HERE'S HOW IT WORKS. AS THE FIRST STEP, THE FEDERAL, STATE AND LOCAL LAW ENFORCEMENT INTEGRATE AND FOCUS THEIR EFFORTS WITHIN A PARTICULAR NEIGHBORHOOD LIKE THE HILL DISTRICT AND, WORKING WITH THE COMMUNITY, "WEED OUT" THE VIOLENT OFFENDERS, THE GANGS, AND THE DRUG TRAFFICKERS.

AND THEN AS THE STREETS ARE RECLAIMED FROM THE CRIMINALS, INTENSIVE COMMUNITY POLICING IS PUT INTO PLACE SO THAT THE GROUND ONCE TAKEN IS HELD.

AND FINALLY, THE BROAD PANOPLY OF FEDERAL, STATE, AND LOCAL GOVERNMENT AND PRIVATE SECTOR COMMUNITY REVITALIZATION PROGRAMS ARE BROUGHT TO BEAR AND FOCUSED ON THE HILL DISTRICT TO "SEED IN" THE LONG TERM STABILITY AND GROWTH.

DRUG PREVENTION PROGRAMS, HEAD START, JOB TRAINING, HEALTH CARE PROGRAMS, COMMUNITY DEVELOPMENT GRANTS, ALL ARE APPLIED TOGETHER AND IN A COHERENT WAY, IN ONE PLACE, THAT IS SUPPORTED BY LAW ENFORCEMENT.

THE PRESIDENT'S FY 1993 "WEED AND SEED" PROPOSAL TO CONGRESS ALSO CALLS FOR THE CREATION OF FEDERAL ENTERPRISE ZONES TO BE USED AS AN INTEGRAL PART OF THE PROGRAM. GIVING TARGETED NEIGHBORHOODS ENTERPRISE ZONE STATUS WILL STIMULATE THE REEMERGENCE OF COMMUNITY ECONOMIC LIFE THROUGH INVESTMENT AND LOCAL ENTREPRENEURIAL ACTIVITY.

OUR GOAL IS NOT TO PERPETUATE DEPENDENCY, BUT TO FOSTER BOTTOM UP ECONOMIC GROWTH -- TO PRIME THE PUMP AND CREATE AN ENVIRONMENT IN WHICH THE COMMUNITY'S OWN RESOURCEFULNESS CAN TAKE OFF.

THE WEED AND SEED PROGRAM THUS PROVIDES, I BELIEVE, A SOUND STRATEGY FOR RECLAIMING OUR NEIGHBORHOODS. IT IS A STRATEGY THAT COMBINES TOUGH LAW ENFORCEMENT WITH PHYSICAL, ECONOMIC AND MORAL REVITALIZATION.

IN SUM, MY MESSAGE TODAY IS THREEFOLD:

1. THE ONLY WAY TO REDUCE VIOLENT CRIME IN OUR SOCIETY IS TO INCAPACITATE CHRONIC VIOLENT OFFENDERS THROUGH A TOUGH POLICY OF INCARCERATION.

WE CANNOT PERMIT OURSELVES TO BACKSLIDE INTO A SYSTEM OF REVOLVING DOOR JUSTICE.

2. WHILE THE FEDERAL GOVERNMENT CAN HELP IN THE WAR ON VIOLENT CRIME IN LIMITED WAYS, ULTIMATELY THE ANSWER IS FOR STATES TO TOUGHEN THEIR CRIMINAL JUSTICE SYSTEMS.

3. AND FINALLY, WHILE IT IS TRUE THAT LAW ENFORCEMENT CANNOT DO THE JOB ALONE, SOCIAL PROGRAMS CANNOT BE PURSUED AT THE EXPENSE OF TOUGH LAW ENFORCEMENT. WE MUST BE SMARTER ABOUT HOW WE PURSUE SOCIAL PROGRAMS. WE MUST INTEGRATE THEM WITH LAW ENFORCEMENT ACTIVITY AND ENSURE THAT RATHER THAN FOSTERING DEPENDENCY, WE STIMULATE THE COMMUNITY'S OUR RESOURCEFULNESS.

THANK YOU VERY MUCH.

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REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE

BAYLOR UNIVERSITY 1992 LAW DAY BANQUET
WACO, TEXAS

APRIL 11, 1992

IT IS A PLEASURE TO BE HERE FOR BAYLOR'S LAW DAY BANQUET.

I APPRECIATED DEAN TOBEN'S KIND INVITATION.

I WELCOMED THE OPPORTUNITY TO PARTICIPATE IN THIS EVENING BECAUSE OF BAYLOR'S STATURE AS A LEADING LAW SCHOOL -- NOT ONLY IN TEXAS, BUT NATIONWIDE.

THE OUTSTANDING QUALITY OF THE ORAL ARGUMENTS I HEARD TODAY CONFIRM THE HIGH CALIBRE OF THIS SCHOOL AND ITS STUDENTS.

OF COURSE, I DIDN'T HAVE TO LEAVE WASHINGTON TO LEARN THAT, HOWEVER; I'VE HAD THE HONOR OF WORKING WITH TWO OF BAYLOR'S DISTINGUISHED ALUMNAE -- FRED MCCLURE AND JUDGE BILL SESSIONS.

BUT IT IS GOOD TO GET OUT OF THE PUZZLE PALACE ON THE POTOMAC AND DOWN HERE TO THE FRIENDLY PEOPLE OF THE LONE STAR STATE.

I APPRECIATE THE HOSPITALITY DEAN TOBEN AND ALL OF YOU HERE HAVE EXTENDED TO ME.

IT IS A REAL PRIVILEGE FOR ME TO BE THE FIRST SPEAKER IN THE MINTON LECTURE SERIES.

I'D LIKE TO SPEAK WITH YOU TONIGHT ABOUT SOME FUNDAMENTAL CHANGES THAT HAVE OCCURRED IN OUR CONSTITUTIONAL SYSTEM OF GOVERNMENT. THESE IMPORTANT CHANGES HAVE GONE LARGELY UNNOTICED. BUT THE AMERICAN PEOPLE ARE CERTAINLY FEELING THEIR EFFECTS.

SPECIFICALLY, I'D LIKE TO OUTLINE HOW, OVER THE YEARS, THE CONGRESS OF THE UNITED STATES HAS CHANGED IN SOME FUNDAMENTAL WAYS. I WANT FIRST TO EXAMINE THE VIEW OF LEGISLATIVE POWER HELD BY THE FRAMERS OF THE CONSTITUTION, AND THE KIND OF CONGRESS THAT THEY ENVISIONED. THEN I WANT TO SUGGEST HOW THE MODERN CONGRESS HAS SUBSTANTIALLY DEPARTED FROM THAT MODEL.

MY PURPOSE HERE IS NOT TO JOIN THE CURRENT CHORUS OF CRITICISM ABOUT CONGRESS TO THE EXTENT IT FOCUSES ON FINDING FAULT WITH PERSONALITIES, PARTIES, OR SPECIFIC ABUSIVE PRACTICES THAT HAVE RECENTLY COME TO LIGHT. RATHER, I WANT TO TAKE THE LONG VIEW AND LOOK AT HOW CONGRESS, AS AN INSTITUTION, HAS EVOLVED.

I.

BEFORE I BEGIN, LET ME OFFER YOU A LITTLE CONSTITUTIONAL AND HISTORICAL CONTEXT. THE HEART OF OUR CONSTITUTIONAL SYSTEM IS A CAREFUL AND SECURE SEPARATION OF GOVERNMENTAL POWER. SEPARATION OF POWERS IS CRUCIAL NOT AS AN END IN ITSELF, BUT RATHER AS THE PRIMARY MEANS BY WHICH OUR BASIC LIBERTIES ARE SECURED AND CAN ENDURE.

NOW THE "GRADE SCHOOL" VERSION OF SEPARATION OF POWERS IS THAT THE FRAMERS OF THE CONSTITUTION WERE, AFTER THEIR COLONIAL EXPERIENCES WITH GEORGE III, PRIMARILY CONCERNED WITH GUARDING AGAINST THE POTENTIAL TYRANNY OF THE EXECUTIVE BRANCH. SO, THE STORY GOES, THEY CREATED A STRONG AND BENEFICENT NATIONAL LEGISLATURE, TIED CLOSELY TO THE PEOPLE, IN ORDER TO KEEP THE DANGEROUS EXECUTIVE BRANCH IN LINE.

FROM BOTH A HISTORICAL AND A POLITICAL PHILOSOPHY PERSPECTIVE, THIS VERSION OF SEPARATION OF POWERS IS WRONG. INDEED, IT HAS MATTERS INVERTED. IT IS TRUE THAT, AT THE BEGINNING OF THE REVOLUTION, COLONIAL LEADERS WERE CONCERNED ABOUT THE ABUSES THEY HAD SUFFERED FROM THE KING. BUT BETWEEN 1776 AND THE CONVENTION AT PHILADELPHIA IN 1787, THE FOUNDERS HAD EXPERIENCED FIRSTHAND A DIFFERENT PROBLEM -- THE DANGERS OF UNCHECKED LEGISLATIVE POWER.

IT WAS, OF COURSE, THE CONTINENTAL CONGRESS THAT RAN AND, BY ITS INEPTITUDE, ALMOST LOST THE REVOLUTIONARY WAR.

THE EXPERIENCE WITH LEGISLATIVE HEGEMONY FARED NO BETTER UNDER THE ARTICLES OF CONFEDERATION, AS THE NATIONAL LEGISLATURE PROVED INCOMPETENT TO RUN THE GOVERNMENT. SIMILARLY, THE INDIVIDUAL STATE GOVERNMENTS DURING THIS PERIOD WERE MARKED BY CONSISTENT LEGISLATIVE ABUSE AND ENCROACHMENT.

INDEED, AFTER A DECADE OF LIVING UNDER LEGISLATIVE RULE, THE FRAMERS WERE ACUTELY AWARE THAT TYRANNY AT THE HANDS OF THE LEGISLATIVE BRANCH WAS AT LEAST AS LIKELY, IF NOT MORE LIKELY, THAN TYRANNY BY AN EXECUTIVE. THIS COMES ACROSS CLEARLY IN THEIR WRITINGS.

0 IN FEDERALIST 48 MADISON WROTE THAT, "WERE IT NECESSARY TO VERIFY" THE EXCESSES OF THE STATE LEGISLATURES DURING THE PERIOD OF THE CONFEDERATION, HE COULD "FIND WITNESS IN EVERY CITIZEN WHO HAS SHARED IN, OR BEEN ATTENTIVE TO, THE COURSE OF PUBLIC ADMINISTRATIONS."

0 IN THAT SAME PAPER, MADISON WARNS THAT "[T]HE LEGISLATIVE DEPARTMENT IS EVERYWHERE EXTENDING THE SPHERE OF ITS ACTIVITY, AND DRAWING ALL POWER INTO ITS IMPETUOUS VORTEX."

0 YET AGAIN, MADISON WRITES IN FEDERALIST 48, THAT "IN A REPRESENTATIVE REPUBLIC . . . IT IS AGAINST THE ENTERPRISING AMBITION OF THIE LEGISLATIVE] DEPARTMENT THAT THE PEOPLE OUGHT TO INDULGE ALL THEIR JEALOUSY AND EXHAUST ALL THEIR PRECAUTIONS."

INDEED, AT THE TIME OF THE PHILADELPHIA CONVENTION, SEVERAL STATES WERE IN THE PROCESS OF, OR HAD JUST RECENTLY, AMENDED THEIR OWN CONSTITUTIONS TO STRENGTHEN THE HAND OF THE EXECUTIVE TO COUNTERBALANCE THE POWERS AND ABUSES OF THE STATE LEGISLATURE.

ANY DOUBT AS TO THE IMPETUS FOR THE CONSTITUTION EVAPORATES IN THE FACE OF MADISON'S BLUNT EXPLANATION OF THE DANGER OF LEGISLATIVE USURPATION. HE WRITES, WITH RESPECT TO THE ARTICLES OF CONFEDERATION:

[THE FOUNDERS OF THE CONFEDERATION] SEEM NEVER TO HAVE RECOLLECTED THE DANGER FROM LEGISLATIVE USURPATIONS; WHICH BY ASSEMBLING ALL POWER IN THE SAME HANDS, MUST LEAD TO THE SAME TYRANNY AS IS THREATENED BY EXECUTIVE USURPATIONS."

IT IS AGAINST THIS BACKDROP THAT THE CONSTITUTION WAS DRAFTED, AND MUST BE UNDERSTOOD. THE AIM OF THE FRAMERS WAS NOT TO ENFEEBLE THE EXECUTIVE BRANCH, BUT QUITE THE CONTRARY, TO RECREATE A STRONG EXECUTIVE, WITH SUFFICIENT CONSTITUTIONAL POWERS OF ITS OWN, TO CHECK ABUSE AND ENCROACHMENT BY THE LEGISLATURE. IN THAT VERY REAL SENSE, "THE MIRACLE AT PHILADELPHIA" WAS ARTICLE II -- THE CREATION OF AN INDEPENDENT EXECUTIVE.

BECAUSE OF THE MODERN FOCUS ON "CHECKING" THE EXECUTIVE, WE SEEM TO FORGET THAT "CHECKS AND BALANCES" ARE ALSO SUPPOSED TO OPERATE AGAINST THE LEGISLATURE. AND THE CONSTITUTION WAS INTENDED TO PROVIDE THOSE CHECKS. IN ADDITION TO CREATING A STRONG, UNITARY EXECUTIVE WITH VETO POWER, THE CONSTITUTION IMPOSES TWO OTHER FUNDAMENTAL STRUCTURAL CHECKS ON LEGISLATIVE POWER:

FIRST, THE CONSTITUTION GIVES CONGRESS ONLY CERTAIN ENUMERATED POWERS -- NOT THE POWER TO LEGISLATE GENERALLY. THE SECOND FUNDAMENTAL CHECK IS BICAMERALISM: THE CONSTITUTION DIVIDES CONGRESS INTO TWO HOUSES, WITH DIFFERENT MODES OF ELECTION AND REPRESENTATION, TO GUARD AGAINST THE DANGEROUS TENDENCIES OF A SINGLE, ALL-POWERFUL LEGISLATIVE BODY.

II.

THESE BASIC STRUCTURAL CHECKS -- A STRONG EXECUTIVE, ENUMERATED POWERS, AND BICAMERALISM -- DEMONSTRATE THE FRAMERS' FEAR OF AN UNRESTRAINED CONGRESS. AND, OF COURSE, OVER TIME ALL OF THESE CHECKS HAVE BEEN GRADUALLY WORN AWAY AND WEAKENED. BUT TONIGHT, I WOULD LIKE TO FOCUS ON TWO MORE SUBTLE RESTRAINTS ON LEGISLATIVE POWER -- RESTRAINTS THAT THE FOUNDING FATHERS THOUGHT WERE INHERENT IN THE NATURE OF A REPRESENTATIVE LEGISLATIVE BODY, BUT WHICH, IT TURNS OUT, HAVE SUBSTANTIALLY EVAPORATED OVER TIME.

SPECIFICALLY, I'M TALKING ABOUT: (1) THE NOTION OF THE CITIZEN-LEGISLATOR; AND (2) THE IDEA THAT REPRESENTATIVES MUST LIVE UNDER THE SAME LAWS THAT THEY PASS.

A.

THE FRAMERS ASSUMED THAT THOSE WHO SERVED IN THE CONGRESS, PARTICULARLY THE HOUSE OF REPRESENTATIVES, WOULD BE CITIZENS FIRST AND LEGISLATORS SECOND. BY THAT, I MEAN A COUPLE OF THINGS. FIRST, IT WAS ASSUMED THAT MEMBERS OF CONGRESS WOULD HAVE OTHER GAINFUL EMPLOYMENT. BEING A REPRESENTATIVE WAS NOT INTENDED TO BE A FULL-TIME OCCUPATION. SECOND, AND RELATEDLY, SERVICE IN CONGRESS WAS NOT INTENDED TO BE A LIFE-LONG CAREER. RATHER, IT WAS GENERALLY ASSUMED THAT A REPRESENTATIVE WOULD, AFTER AN APPROPRIATE TENURE, RETURN TO HIS HOME STATE AND ATTEND TO HIS OWN AFFAIRS.

THE NOTION OF THE CITIZEN-LEGISLATOR COMES ACROSS WITH UNMISTAKABLE CLARITY IN THE WRITINGS AND DISCUSSIONS OF THE FOUNDING FATHERS.

THERE ARE NUMEROUS REFERENCES TO THEIR EXPECTATION THAT CONGRESS WOULD MEET ONLY FOR A SHORT TIME EACH YEAR AND THEN ADJOURN, WITH THE MEMBERS RESUMING THEIR NORMAL LIVES AT HOME.

IT WAS SAID THAT ONE OF THE ADVANTAGES OF THIS SYSTEM WAS THAT MEMBERS WOULD NOT BE STAYING LONG AT THE SEAT OF GOVERNMENT AND THEREFORE WOULD NOT ACQUIRE HABITS DIFFERENT FROM THEIR FELLOW CITIZENS BACK HOME.

THE FRAMERS' VIEW OF THE CITIZEN-LEGISLATOR IS CONFIRMED BY THE TENURES OF THE MEMBERS OF THE FIRST CONGRESS. DESPITE THE FACT THAT FOR THE FIRST SIX CONGRESSES, ONE PARTY -- THE FEDERALISTS -- REMAINED IN COMPLETE CONTROL, INDIVIDUAL LEGISLATORS TURNED OVER RAPIDLY:

0 BY THE TIME OF THE THIRD CONGRESS (A SCANT 4 YEARS LATER), ONLY 33% OF THE MEMBERS OF THE FIRST CONGRESS HAD SERVED CONTINUOUSLY IN THE LEGISLATURE;

0 AND 12 YEARS LATER, DURING THE SIXTH CONGRESS, A MERE 10% OF THE MEMBERS HAD SERVED CONTINUOUSLY IN THE CONGRESS.

SO THE FRAMERS' OWN PRACTICE COMPORTED WITH THEIR VIEW OF CONGRESS AS AN INSTITUTION THROUGH WHICH LEADING CITIZENS ROTATED -- NOT A PERMANENT ASSEMBLY OF FULL-TIME CAREER POLITICIANS.

B.

THE SECOND IMPORTANT CHECK ON LEGISLATIVE POWER ASSUMED BY THE FRAMERS WAS THAT CONGRESS WOULD LIVE UNDER THE VERY SAME LAWS THAT IT IMPOSES ON EVERYONE ELSE. IN FEDERALIST 57, MADISON EMPHASIZES THAT THE MEMBERS OF CONGRESS "CAN MAKE NO LAW WHICH WILL NOT HAVE ITS FULL OPERATION ON THEMSELVES AND THEIR FRIENDS, AS WELL AS ON THE GREAT MASS OF SOCIETY. THIS [, MADISON SAYS,] HAS ALWAYS BEEN DEEMED ONE OF THE STRONGEST BONDS BY WHICH HUMAN POLICY CAN CONNECT THE RULERS AND THE PEOPLE TOGETHER."

AT BOTTOM, THIS SAFEGUARD -- THAT THE PEOPLE'S REPRESENTATIVES WILL THEMSELVES BE SUBJECT TO THE LAWS THEY ENACT -- IS THE VERY FOUNDATION OF FREE, SELF-GOVERNMENT. AS MADISON HIMSELF FORCEFULLY PUT IT, "IF THE SPIRIT [OF THE AMERICAN PEOPLE] SHALL EVER BE SO FAR DEBASED AS TO TOLERATE A LAW NOT OBLIGATORY ON THE LEGISLATURE AS WELL AS ON THE PEOPLE, THE PEOPLE WILL BE PREPARED TO TOLERATE ANYTHING BUT LIBERTY." (FEDERALIST 57).

IN SHORT, THEN, THE FRAMERS NOT ONLY PLACED STRUCTURAL CHECKS ON CONGRESS, EXPLICIT IN THE TEXT OF THE CONSTITUTION, THEY ALSO MADE ASSUMPTIONS ABOUT HOW THAT BODY WOULD OPERATE -- ASSUMPTIONS THAT WERE ESSENTIAL TO THE SECURE OPERATION OF GOVERNMENT. THEY ASSUMED THAT CONGRESS WOULD BE PEOPLED BY A GROUP OF CITIZEN LEGISLATORS, WHO, AS SUCH, WOULD NECESSARILY LIVE FULLY UNDER THE LAWS THAT THEY PASSED.

III.

NOW, HOW DOES THE MODERN CONGRESS MATCH UP AGAINST THE MODEL ENVISIONED? THE ANSWER IS THAT THE CONGRESS OF THE UNITED STATES TODAY IS A FUNDAMENTALLY DIFFERENT INSTITUTION THAN THE CONGRESS CONCEIVED BY THE FRAMERS.

A.

TAKE, FIRST, THE CONCEPT OF THE CITIZEN-LEGISLATOR. BY AND LARGE, THE NOTION OF THE PART-TIME CITIZEN-LEGISLATOR HAS BEEN REPLACED BY THE FULL-TIME, CAREER, PROFESSIONAL POLITICIAN. CONSIDER THAT

0 THE AVERAGE TERM OF A MEMBER OF THE HOUSE OF REPRESENTATIVES THROUGHOUT THE 19TH CENTURY WAS LESS THAN 5 YEARS; NOW IT IS ALMOST TRIPLE THAT -- AT APPROXIMATELY 13 YEARS.

0 EVEN MORE TELLING IS THE REELECTION RATE. THE CURRENT REELECTION RATE OF CONGRESSMEN WHO CHOOSE TO RUN FOR ANOTHER TERM IS ABOVE 95%.

IN ADDITION TO BEING A CAREER PROFESSIONAL, THE MODERN LEGISLATOR ALSO SPENDS MUCH MORE TIME IN THE NATION'S CAPITOL THAN HIS PREDECESSORS:

0 IN THE NINETEENTH CENTURY, MANY SESSIONS OF CONGRESS LASTED LESS THAN 3 MONTHS. EVEN IN THE 1930'S, DURING THE HEIGHT OF THE NEW DEAL, THE AVERAGE WAS ONLY 6 MONTHS. NOW, THEY AVERAGE 11 MONTHS -- LEAVING LITTLE MORE THAN A SHORT BREAK FOR THE HOLIDAYS BETWEEN SESSIONS.

AND THE NEW CAREER LEGISLATOR IS NOW SUPPORTED BY AN IMMENSE, FULL-TIME INSTITUTIONAL STAFF AND PERMANENT COMMITTEE STRUCTURE THAT THE FRAMERS COULD NEVER HAVE IMAGINED.

THE EXPLOSIVE GROWTH OF CONGRESSIONAL STAFFS BEGAN WITH THE LEGISLATIVE REORGANIZATION ACT OF 1946. UP TO THAT TIME, MEMBERS OF CONGRESS HAD FEW PERSONAL AIDES TO SPEAK OF, AND CONGRESSIONAL COMMITTEES HAD NO PERMANENT PROFESSIONAL STAFFS. IT'S HARD TO IMAGINE NOW, BUT BACK THEN THE ELECTED REPRESENTATIVES OF THE PEOPLE ACTUALLY DEBATED THE ISSUES AND HAMMERED OUT COMPROMISES IN FACE-TO-FACE DELIBERATION.

TODAY, WE HAVE CREATED A BUREAUCRATIC BEHEMOTH ON CAPITOL HILL.

PERSONAL STAFFS HAVE GROWN FROM ABOUT 2,000 IN 1947 TO WELL MORE THAN 11,000 IN 1989. THESE NUMBERS DON'T EVEN INCLUDE THE MORE THAN 10,000 OTHERS WHO WORK FOR THE GAO, CONGRESSIONAL BUDGET OFFICE, AND OTHER ARMS OF THE LEGISLATIVE BRANCH.

COMMITTEE STAFFS IN THE HOUSE HAVE INCREASED NEARLY TWELVEFOLD BETWEEN 1947 AND 1989, FROM 167 TO ABOUT 2,000. IN THE SENATE, STANDING COMMITTEE STAFFS GREW FOUR TIMES LARGER DURING THE SAME PERIOD, FROM 232 TO MORE THAN 1,000.

WITH THIS MUSHROOMING STAFF GROWTH, HAS COME THE RAPID PROLIFERATION OF COMMITTEES AND SUBCOMMITTEES. OVER THE PAST 40 YEARS CONGRESS HAS CREATED AN AVERAGE OF 2 NEW SUBCOMMITTEES A YEAR, EACH WITH ITS OWN STAFF.

IN MY VIEW, THE GROWTH OF THIS BUREAUCRACY HAS A LOT TO DO WITH WHY CONGRESS IS OUT OF TOUCH AND OUT OF CONTROL. CONGRESSIONAL STAFFS BEHIND THE SCENES HANDLE THE NEGOTIATIONS AND COMPROMISES THAT USED TO BE HANDLED FIRSTHAND BY THE ELECTED REPRESENTATIVES. SO WE NO LONGER HAVE THE CONGRESS THAT MADISON IN FEDERALIST 52 ENVISIONED AS "A SUBSTITUTE FOR A MEETING OF THE CITIZENS IN PERSON."

SOME MIGHT SUGGEST THAT TODAY WE NEED CAREER POLITICIANS IN CONGRESS AND A VAST BUREAUCRATIC STAFF SYSTEM BECAUSE "GOVERNMENT HAS BECOME MORE COMPLEX."

I THINK THIS CONFUSES THE ROLE OF CONGRESS WITH THE ROLE OF THE EXECUTIVE.

IT IS THE EXECUTIVE BRANCH THAT IS SUPPOSED TO IMPLEMENT AND ADMINISTER PROGRAMS. AND ONE CAN EXPECT THAT THE GROWTH OF GOVERNMENT WOULD LEAD TO THE GROWTH OF THE EXECUTIVE BRANCH BUREAUCRACY.

A BIGGER ARMY MEANS A BIGGER PENTAGON.

PAYING OUT SOCIAL SECURITY CHECKS MEANS SETTING UP A SOCIAL SECURITY ADMINISTRATION.

BUT THE ROLE OF CONGRESS IS THE FORGE THE BASIC POLICY DECISIONS -- EMBODIED IN LAWS -- THAT ARE TO BE CARRIED OUT BY THE EXECUTIVE.

IT IS HARD TO SEE HOW A VAST GROWTH IN STAFF IS REALLY NECESSARY TO SUPPORT THAT KIND OF DECISION-MAKING.

SOME STAFF INCREASE IS INEVITABLE, BUT NOT ON THE SCALE WE SEE TODAY.

IN FACT, THE BUREAUCRACY ON THE HILL SEEMS TO IMPEDE THE ABILITY TO REACH POLICY DECISIONS.

WE ARE NOT GETTING A BETTER PRODUCT.

IF, ANYTHING THE PROCESS IS CHARACTERIZED BY MORE DELAY AND MORE CONFUSION.

THE PROLIFERATION OF STAFF AND SUBCOMMITTEES HAS GUMMED UP THE WORKS.

THERE IS A PARALYSIS THROUGH ANALYSIS.

FOR THE PAST 13 YEARS, CONGRESS HAS BEEN ASKED TO PASS A DEATH PENALTY AND STILL CAN'T GET IT THROUGH.

AS CONGRESS HAS BECOME MORE AN UNWIELDY BUREAUCRACY, IT ACTUALLY SEEMS TO SEEK TO AVOID MAKING DECISIONS.

THE LARGE STAFFS HAVE DRAWN CONGRESS INTO THE BUSINESS ADMINISTERING AND MICROMANAGING THE EXECUTIVE BRANCH.

SO INSTEAD OF DOING ITS JOB OF MAKING BASIC POLICY DECISIONS, CONGRESS HAS BEEN USURPING THE EXECUTIVE'S ROLE OF MANAGING DAY-TO-DAY OPERATIONS.

IT IS INSTRUCTIVE TO NOTE HOW CONGRESS -- WITH LIMITED, ENUMERATED POWERS -- COMPARES WITH THE STATE LEGISLATURES, WHOSE RESPONSIBILITIES ARE MUCH MORE DIVERSE GENERAL. THE STATE LEGISLATURES DEMONSTRATE THE CONTINUED VIABILITY OF PART-TIME CITIZEN LEGISLATORS WHO ARE RESPONSIVE TO THE PEOPLE RATHER THAN PROFESSIONAL STAFFS:

THE MAJORITY OF STATES HAVE ESSENTIALLY PART-TIME LEGISLATURES.

ONLY EIGHT STATES HAVE REAL FULL-TIME LEGISLATURES.

ONLY 11% OF STATE LEGISLATORS CONSIDERED BEING A LEGISLATOR THEIR SOLE PROFESSION.

THE STAFFS OF STATE LEGISLATURES ARE CORRESPONDINGLY SMALLER THAN THOSE OF CONGRESS. ON AVERAGE, THERE ARE FEWER THAN FIVE STAFF MEMBERS PER LEGISLATOR IN THE 50 STATE LEGISLATURES, COMPARED WITH MORE THAN THIRTY-ONE STAFFERS PER MEMBER OF CONGRESS.

PERHAPS MOST SIGNIFICANT TO PREVENTING THE DEVELOPMENT OF PROFESSIONAL, FULL-TIME LEGISLATORS, 33 STATES HAVE EXPRESS CONSTITUTIONAL OR STATUTORY LIMITS ON THE LENGTH OF LEGISLATIVE SESSIONS. IN MOST STATES WITH SUCH LIMITS THE FIGURE RANGES FROM TWO TO SIX MONTHS. REMEMBER THAT CONGRESS IS IN SESSION FOR AN AVERAGE 11 MONTHS -- WELL OVER 300 DAYS -- PER YEAR.

BASED ON THE EXPERIENCE OF OUR STATES AT ANY RATE IT HAS NOT BEEN NECESSARY TO BUREAUCRATIZE THE LEGISLATURE IN ORDER TO ADDRESS MODERN SOCIAL PROBLEMS. AND I THINK WE SHOULD BE SKEPTICAL OF ANY CLAIM THAT CONGRESS' EVOLUTION AWAY FROM THE CITIZEN LEGISLATURE AND INTO A FULL-TIME, PROFESSIONAL BUREAUCRACY WAS EITHER NECESSARY OR FOR-THE-BETTER.

B.

NOW LET ME TURN TO THE FRAMERS' EXPECTATIONS THAT CONGRESS WOULD LIVE UNDER ITS OWN LAWS. THIS EXPECTATION HAS NOT FARED WELL OVER THE LAST HALF-CENTURY.

AS CONGRESSMEN BECOME MORE CAREER PROFESSIONAL POLITICIANS AND LESS CITIZEN-LEGISLATORS, THE EFFECTIVENESS OF THIS IMPORTANT CHECK IS UNDERMINED. THE MORE YEARS THAT A CONGRESSMAN SPENDS IN WASHINGTON PASSING LAWS, THE MORE TIME HE IS EXEMPT FROM THE IMPACT THAT THOSE LAWS WOULD HAVE HAD ON HIM IF HE HAD RETURNED HOME TO WORK AS A BUILDER, A DEVELOPER, A MANUFACTURER, OR IN COUNTLESS OTHER INDUSTRIES THAT FEEL THE WEIGHT OF DAILY COMMANDS FROM CONGRESS.

MOREOVER, EVEN IN ITS CAPACITY AS AN EMPLOYER OF AN IMMENSE STAFF, CONGRESS HAS EXEMPTED ITSELF FROM THE REACH OF MOST LAWS THAT APPLY TO OTHER EMPLOYERS. FOR EXAMPLE, CONGRESS HAS EXEMPTED ITSELF FROM -- (1) THE SOCIAL SECURITY ACT OF 1933, (2) THE NATIONAL LABOR RELATIONS ACT, (3) THE MINIMUM WAGE ACT, (4) THE EQUAL PAY ACT, AND (5) THE AGE DISCRIMINATION IN EMPLOYMENT ACT.

AS TO OTHER ACTS, CONGRESS -- BENDING TO PRESSURE FROM THE PRESIDENT -- HAS NOMINALLY INCLUDED ITSELF WITHIN THE COVERAGE OF THE LAW, BUT PROVIDED FOR SPECIAL ENFORCEMENT MECHANISMS THAT ALLOW CONGRESS TO BE THE JUDGE OF ITS OWN CAUSE. THIS IS TRUE, FOR EXAMPLE, OF THE CIVIL RIGHTS ACT OF 1991 AND THE AMERICANS WITH DISABILITIES ACT.

FINALLY, CONGRESS EVEN EXEMPTS ITSELF FROM THE "GOOD GOVERNMENT" LEGISLATION THAT DIRECTLY APPLIES TO GOVERNMENTAL FUNCTIONS. FOR EXAMPLE:

CONGRESS HAS EXEMPTED ITSELF FROM THE PRIVACY ACT, WHICH BARS THE GOVERNMENT FROM DISCLOSING INFORMATION ABOUT A CITIZEN WITHOUT HIS OR HER PERMISSION.

CONGRESS HAS EXEMPTED ITSELF FROM THE ETHICS IN GOVERNMENT ACT, THAT AUTHORIZES THE APPOINTMENT OF AN INDEPENDENT COUNSEL TO INVESTIGATE AND PROSECUTE MISDEEDS BY GOVERNMENT OFFICIALS.

AND CONGRESS HAS EXEMPTED ITSELF FROM THE FREEDOM OF INFORMATION ACT, WHICH REQUIRES PUBLIC DISCLOSURE OF GOVERNMENT DOCUMENTS UNLESS THERE IS SHOWN TO BE A SPECIAL NEED FOR CONFIDENTIALITY.

RECALL MADISON'S WORDS, "[IIF TH[E AMERICAN] SPIRIT SHALL EVER BE SO FAR DEBASED AS TO TOLERATE A LAW NOT OBLIGATORY ON THE LEGISLATURE AS WELL AS ON THE PEOPLE, THE PEOPLE WILL BE PREPARED TO TOLERATE ANYTHING BUT LIBERTY." I THINK IT'S FAIR TO ASK WHETHER WE HAVE LET OURSELVES BE LED DOWN THAT PATH.

IV.

WHAT THEN IS THE SOLUTION? I DO NOT PROFESS TO HAVE AN EASY ANSWER. THERE IS NONE. I CAN, HOWEVER, COMMENT ON SOME OF THE CHOICES.

I, OF COURSE, ENDORSE THE EFFORTS OF CONGRESS TO CLEAN ITS OWN HOUSE. THERE IS A MODEST REFORM MOVEMENT AFOOT IN CONGRESS. HOUSE MINORITY LEADER ROBERT MICHEL, FOR EXAMPLE, HAS PROPOSED SWEEPING REFORMS IN THE HOUSE THAT WOULD CUT IN HALF THE SIZE OF COMMITTEE STAFFS, ELIMINATE FOUR OUT OF FIVE SELECT COMMITTEES, LIMIT SUBCOMMITTEES, AND PUT AN END TO THE INEFFICIENT PRACTICE OF SENDING BILLS TO MORE THAN ONE COMMITTEE.

WE SHOULD ENCOURAGE SUCH EFFORTS. BUT I DO NOT THINK WE CAN COUNT ON CONGRESS TO REFORM ITSELF FUNDAMENTALLY AND TO REMAKE ITS MODERN CHARACTER. I THINK WE NEED TO CONSIDER MORE BASIC CHANGES.

FIRST, THOUGHT HAS TO BE GIVEN TO TERM LIMITATION. AT A MINIMUM, THE SAME RULE SHOULD BE APPLIED TO CONGRESS AS WE APPLY TO THE PRESIDENT. AS YOU KNOW, AFTER WORLD WAR II THERE WAS A CONSTITUTIONAL AMENDMENT LIMITING THE PRESIDENT TO TWO TERMS. IF TERM LIMITS ARE APPROPRIATE FOR THE PRESIDENT, THEY'RE EVEN MORE SO FOR THE CONGRESS. IMPOSING TERM LIMITS FOR ONE BUT NOT THE OTHER SIGNIFICANTLY UPSETS THE CRUCIAL BALANCE OF POWER THAT THE FRAMERS SO CAREFULLY SET UP.

SECOND, I BELIEVE CONSIDERATION SHOULD ALSO BE GIVEN TO RE-ESTABLISHING CONGRESS AS A PART-TIME JOB BY LIMITING THE LENGTH OF ITS SESSION TO A CERTAIN NUMBER OF DAYS A YEAR. THIS WOULD EFFECTIVELY MOVE US BACK TOWARD THE CITIZEN LEGISLATURE THE FOUNDERS ENVISIONED. FRANKLY, THROUGH THE REVERSE OF PARKINSON'S LAW, SHORTER SESSIONS WOULD GIVE US BETTER DECISIONS AND LESS PARALYSIS.

THIRD, GIVING THE PRESIDENT THE LINE-ITEM VETO WOULD ALSO HELP KEEP CONGRESS ON COURSE. FORTY-THREE STATE GOVERNORS HAVE THE LINE ITEM VETO. IF THE PRESIDENT HAD TO REJECT CERTAIN ITEMS IN A BILL, THIS CHECK COULD BE USED BOTH TO REJECT RECKLESS SPENDING IN GENERAL AND ALSO AS A DIRECT CHECK ON THE MONEY CONGRESS NOW SPENDS ON ITSELF, ITS STAFF, AND ITS NONLEGISLATIVE ACTIVITIES. IN THAT WAY, THE LINE-ITEM VETO COULD HELP FORCE THE CONGRESS TO RETURN TO ITS PROPER ROLE.

FINALLY, WE SHOULD INSIST ON PASSAGE OF LEGISLATION THAT WOULD MAKE CONGRESS SUBJECT TO A NUMBER OF THE LAWS THAT APPLY TO EVERYONE BUT CONGRESS. THE PRESIDENT HAS ANNOUNCED THAT HE WILL SEEK LEGISLATION TO EXTEND TO CONGRESS LAWS SUCH AS THE FREEDOM OF INFORMATION ACT, THE PRIVACY ACT, THE ETHICS IN GOVERNMENT ACT, THE HATCH ACT, AS WELL AS CONFLICT OF INTEREST, CIVIL RIGHTS, AND MINIMUM WAGE LAWS. APPLYING THESE LAWS TO CONGRESS IS AN IMPORTANT STEP IN REVERSING THE TREND TOWARD SELF-INSULATION OF CAREER POLITICIANS AND IN RESTORING THE CITIZEN-LEGISLATOR -- A REPRESENTATIVE LIVING UNDER THE LAW THE SAME AS EVERYONE ELSE.

AS I SAID, THERE IS NO SIMPLE SOLUTION.

BUT, I BELIEVE THE FIRST IMPORTANT STEP IS TO REALIZE THAT MUCH OF THE PRESENT DISSATISFACTION WITH HOW CONGRESS OPERATES STEMS PRECISELY FROM THE FACT THAT THE INSTITUTION HAS DEPARTED SIGNIFICANTLY FROM SOME OF THE UNDERLYING ASSUMPTIONS THAT WERE FUNDAMENTAL TO THE FRAMERS' VIEW OF A STRONG, BUT SAFE, NATIONAL LEGISLATURE. AND, IN THIS, AS IN MOST THINGS, THE FRAMERS WERE RIGHT.

THANK YOU.

ATTORNEY GENERAL BARR'S STATEMENT AT NORIEGA PRESS CONFERENCE

GOOD AFTERNOON. DEA ADMINISTRATOR ROB BONNER AND I HAVE BRIEF STATEMENTS AND THEN TWO OF US, ALONG WITH BOB MUELLER, ASSISTANT ATTORNEY GENERAL FOR THE CRIMINAL DIVISION, WILL ATTEMPT TO ANSWER SOME OF YOUR QUESTIONS.

THE CONVICTION OF FORMER PANAMANIAN DICTATOR MANUEL NORIEGA ON 8 COUNTS OF RACKETEERING, DRUG TRAFFICKING AND CONSPIRACY IS AN HISTORIC ACCOMPLISHMENT AND A GREAT VICTORY FOR THE RULE OF LAW AND FOR THE AMERICAN PEOPLE.

THIS DAY WAS MADE POSSIBLE BY PRESIDENT BUSH'S COURAGEOUS DECISION TO BRING TO AN END THE CORRUPT AND LAWLESS REGIME OF THE DICTATOR NORIEGA.

I WANT TO COMMEND THE INVESTIGATIVE AND PROSECUTORIAL TEAM HEADED BY ASSISTANT UNITED STATES ATTORNEY PAT SULLIVAN FOR THEIR SUPERB PROFESSIONALISM AND SKILL IN BRINGING THIS CASE TO A SUCCESSFUL CONCLUSION.

JUDGE HOVELER OBSERVED THAT IT WAS THE BEST PREPARED CASE HE HAD SEEN. WE ARE VERY PROUD OF OUR TEAM.

I ALSO WANT TO COMMEND THE JURY FOR THEIR SACRIFICE AND HARD WORK, AND THEIR FAITHFUL DELIBERATIONS.

I ALSO WANT TO EXPRESS APPRECIATION TO FEDERAL DISTRICT COURT JUDGE HOEVELER FOR HIS STEADY AND FAIR OVERSIGHT OF THIS TRIAL.

WHEN GENERAL NORIEGA WAS INDICTED NEARLY FOUR YEARS AGO, FEW OBSERVERS BELIEVED THAT THIS DAY WOULD EVER COME. MANY REGARDED THE INDICTMENTS AS BEING FUTILE. TODAY, MANUEL NORIEGA STANDS CONVICTED IN A UNITED STATES DISTRICT COURT.

THIS IS AN IMPORTANT MESSAGE TO THE DRUG LORDS: THERE ARE NO SAFE HAVENS; THEIR WEALTH AND THEIR FIREPOWER CANNOT PROTECT THEM FOREVER.

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STATEMENT AT WEED AND SEED ANNOUNCEMENT / PHILADELPHIA

I'M PLEASED TO BE ABLE TO JOIN [NAMES] HERE TODAY TO MAKE AN ANNOUNCEMENT ABOUT THE NEW WEED AND SEED PROGRAM.

- MAYOR RENDELL DEP.
- ERNIE PREATE / MIKE BAYLSON
- LYNNE ABRAHAM
- CHIEF WILLIAMS
- COMMUNITY LEADERS

PRESIDENT BUSH HAS LAUNCHED THE WEED AND SEED PROGRAM AS AN INNOVATIVE STRATEGY FOR RECLAIMING AND REVITALIZING INNER CITY NEIGHBORHOODS THAT ARE BEING OVERRUN BY VIOLENT CRIME.

IT IS A TWO-PRONG STRATEGY THAT FIRST ENABLES THE COMMUNITY TO TAKE BACK THE STREETS FROM GANGS, DRUG DEALERS, AND VIOLENT CRIMINALS, AND THEN PROVIDES STIMULUS AND SUPPORT FOR THE NEIGHBORHOOD'S OWN GRASSROOTS ECONOMIC AND SOCIAL REDEVELOPMENT.

THE PHILOSOPHY THAT UNDERLIES THE PROGRAM IS THAT SOCIAL PROGRAMS MUST BE CLOSELY COORDINATED AND INTEGRATED WITH LAW ENFORCEMENT EFFORTS.

- RECOGNIZE SOMEONE NOT HERE TODAY:
SENATOR SPECTOR - TRUE LEADER IN THIS AREA
- WEED AND SEED WAS LARGELY INSPIRED BY PHILADELPHIA'S EXPERIENCE W/ VTP
- IT WAS SENATOR SPECTOR WHO WAS MAIN FORCE BEHIND THAT
- NOTE HIS CONTRIBUTION

AN AWARD OF ABOUT HALF OF THIS AMOUNT WILL BE MADE FOR USE THIS YEAR AND THE REMAINDER WILL BE AVAILABLE FOR NEXT FISCAL YEAR, SUBJECT TO CONGRESSIONAL APPROPRIATIONS.

IN ADDITION, AS A WEED AND SEED SITE, ~~NAME OF CITY~~ PHILADELPHIA WILL BE ELIGIBLE TO RECEIVE TARGETED MONIES UNDER A VARIETY OF EXISTING FEDERAL PROGRAMS DURING THIS FISCAL YEAR.

AND, IF THE PRESIDENT'S EXPANDED PROGRAM IS ADOPTED, PHILADELPHIA WOULD BE ELIGIBLE FOR ITS SHARE OF THE \$500 MILLION IN SOCIAL PROGRAMS THE PRESIDENT IS SEEKING FOR THE WEED AND SEED AREAS.

PHILADELPHIA IS A GREAT CITY FOR THE WEED AND SEED PROGRAM -- ITS GOOD, HARD-WORKING PEOPLE ARE TRYING TO FIGHT THE ENCROACHMENT OF CRIME AND DRUG ABUSE.

OVER THE PAST FEW MONTHS, U.S. ATTORNEY MIKE BAYLSON, FEDERAL STATE AND LOCAL OFFICIALS AND COMMUNITY LEADERS HAVE WORKED HARD AND WORKED TOGETHER TO DEVELOP A COMPREHENSIVE WEED AND SEED PROGRAM FOR PHILADELPHIA.

WEST KENSINGTON + ~~HUNTING~~ HUNTING PARK NEIGHBORHOODS.

F-S-L
CONGRATULATE
L.E. TEAM

SISTER CAROL KECK, MIRIAM COLON,
FLORENCE RICHARDSON, SID HEFITZ

[INSERT LOCAL NAMES] HAVE PROVIDED CRITICAL SUPPORT TO THESE EFFORTS.

TODAY I AM PLEASED TO ANNOUNCE THAT ~~PHILADELPHIA~~ ~~[NAME OF CITY]~~ HAS BEEN DESIGNATED AS A WEED AND SEED COMMUNITY FOR THIS 1992 DEMONSTRATION PROGRAM.

THIS MEANS THAT, AS A 1992 DEMONSTRATION SITE, THE TARGETED NEIGHBORHOODS IN PHILADELPHIA WILL BE APPROVED TO RECEIVE APPROXIMATELY \$1 MILLION FROM THE DEPARTMENT OF JUSTICE TO BEGIN IMPLEMENTATION OF THE WEED AND SEED STRATEGY.

THE PRESIDENT HAS ALSO ASKED CONGRESS TO AUTHORIZE THE DESIGNATION OF WEED AND SEED COMMUNITIES AS ENTERPRISE ZONES. THIS WILL STIMULATE THE RE-EMERGENCE OF COMMUNITY ECONOMIC LIFE THROUGH INVESTMENT, JOB CREATION, AND LOCAL ENTREPRENEURIAL ACTIVITY.

FOR NEXT FISCAL YEAR (1993) THE PRESIDENT IS SEEKING A SUBSTANTIAL EXPANSION OF THE WEED AND SEED PROGRAM. HE IS REQUESTING \$500 MILLION FOR THE PROGRAM.

BUT THIS YEAR (1992), WE DO HAVE THE RESOURCES TO GET THE WEED AND SEED DEMONSTRATION PROGRAMS UNDERWAY IN A NUMBER OF SELECTED CITIES.

IN JANUARY, PHILADELPHIA WAS AMONG A SELECT GROUP OF CITIES ASKED TO SUBMIT AN APPLICATION FOR A WEED AND SEED PROJECT. BASED UPON THE SUCCESS OF THE VIOLENT TRAFFICKERS PROJECT -- A PROGRAM NURTURED BY SENATOR SPECTOR AND LED BY THE U.S. ATTORNEY. IN FACT, IT IS THIS "PHILADELPHIA STORY" IN THE SPRING GARDEN NEIGHBORHOOD THAT INSPIRED THE WEED AND SEED CONCEPT.

TOO OFTEN IN THE PAST, WE HAVE PURSUED OUR SOCIAL PROGRAMS AND OUR LAW ENFORCEMENT PROGRAMS ON SEPARATE TRACKS.

THE RESULT HAS BEEN THAT MANY OF OUR EFFORTS TO REVITALIZE OUR URBAN COMMUNITIES ARE BEING STRANGLING BY CRIME.

- WE BUILD PUBLIC HOUSING ONLY TO SEE IT TAKEN OVER BY DRUG PUSHERS AND USED AS CRACK HOUSES.
- WE BUILD MODEL SCHOOLS ONLY TO SEE THEM BECOME COMBAT ZONES FOR GANGS.

IT HAS COME INCREASINGLY CLEAR THAT DEALING WITH CRIME IS AN ABSOLUTE PREREQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

BY THE SAME TOKEN, LAW ENFORCEMENT "SWEEPS" AND OTHER EFFORTS AT SUPPRESSION -- STANDING ALONE, WITHOUT ANY SUSTAINED COMMITMENT TO NEIGHBORHOOD REHABILITATION -- CAN HAVE ONLY A LIMITED IMPACT.

AND SO THE CHALLENGE FOR THE 1990'S IS TO LINK THESE
EFFORTS UP -- TO DEPLOY AND FOCUS BOTH OUR LAW
ENFORCEMENT ASSETS AND OUR SOCIAL RESOURCES AT THE
SAME TIME, IN THE SAME PLACE, AND IN A MUTUALLY
REINFORCING WAY -- AND TO DO THIS IN A WORKING
PARTNERSHIP WITH THE COMMUNITY ITSELF.

THAT'S WHAT THE PRESIDENT'S WEED AND SEED PROGRAM IS
ALL ABOUT.

AND HERE'S HOW IT WORKS:

AS THE FIRST STEP, THE FEDERAL, STATE AND LOCAL LAW
ENFORCEMENT INTEGRATE AND FOCUS THEIR EFFORTS WITHIN
A SPECIFIC NEIGHBORHOOD -- ONE WHICH IS BESIEGED BY
CRIME, BUT WHOSE RESIDENTS WANT TO TAKE BACK THEIR
STREETS AND REBUILD THEIR COMMUNITY.

WORKING WITH THE COMMUNITY, LAW ENFORCEMENT "WEEDS OUT" THE VIOLENT OFFENDERS, GANGS AND DRUG DEALERS. THEN, AS THE STREETS ARE RECLAIMED FROM THE CRIMINALS, INTENSIVE COMMUNITY POLICING IS PUT INTO PLACE, SO THAT THE GROUND, ONCE TAKEN, IS HELD.

AND FINALLY, THE BROAD PANOPLY OF FEDERAL, STATE AND LOCAL GOVERNMENT AND PRIVATE SECTOR COMMUNITY REVITALIZATION PROGRAMS ARE BROUGHT TO BEAR AND FOCUSED ON THAT COMMUNITY TO "SEED IN" LONG TERM STABILITY AND GROWTH.

HEAD START, JOB TRAINING, HEALTH CARE, DRUG PREVENTION, COMMUNITY DEVELOPMENT GRANTS -- ALL APPLIED TOGETHER AND IN A COHERENT WAY, IN ONE PLACE, SUPPORTED BY LAW ENFORCEMENT.

JUSTICE DEPARTMENT TO HOLD EVENTS TODAY REGARDING "WEED & SEED"

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Body

The Department of Justice will have several events regarding "Weed & Seed" today (April 6):

The Department of Justice will hold a press briefing at 2 p.m. in the Deputy Attorney General's conference Room 4111, Main Justice, 10th & Constitution Ave., N.W. Reporters should enter the building on Constitution Avenue between Ninth and Tenth streets, N.W., to attend the briefing. Cameras and audio recording equipment for broadcast will not be permitted in the briefing.

Attorney General William P. Barr will give brief remarks and visit the "Weed & Seed" site in Philadelphia at 11 a.m., 2238 North Palethorp St., between Front and Second streets, North of Susquehanna Street.

The attorney general will also give brief remarks and visit the "Weed & Seed" site in Richmond, Va., at 2:30 p.m., Calhoun Center, Gilpin Court Housing Community, Chamberlayne Parkway and St. John streets.

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JUVENILE JUSTICE
ATTORNEY GENERAL'S REMARKS

I.

I'M HERE TODAY TO TALK TO YOU ABOUT THE IMPORTANCE OF JUVENILE JUSTICE REFORM.

IN MY VIEW, JUVENILE JUSTICE REFORM IS AN ESSENTIAL PART OF THE WAR ON CRIME.

IT IS NO MYSTERY WHO COMMITS THE LION'S SHARE OF CRIME IN THIS COUNTRY. STUDY AFTER STUDY SHOW THAT THERE IS A SMALL SEGMENT OF OUR POPULATION WHO ARE REPEAT VIOLENT OFFENDERS AND WHO COMMIT MUCH, IF NOT MOST, OF THE PREDATORY VIOLENT CRIME IN OUR SOCIETY.

UNFORTUNATELY, THESE HABITUAL OFFENDERS USUALLY EMBARK ON A CAREER OF CRIME AS JUVENILES. THEY BEGIN COMMITTING CRIMES IN THEIR MID-, OR EVEN EARLY-, TEENS, AND BY THE TIME THEY REACH THE AGE OF MAJORITY THEY ARE EXPERIENCED, INCORRIGIBLE CRIMINALS.

MOST KIDS WHO GET INTO TROUBLE HAVE ONLY ONE OR TWO BRUSHES WITH THE LAW AND STRAIGHTEN OUT AS THEY GET MORE MATURE.

A SMALL GROUP OF JUVENILE OFFENDERS, HOWEVER, BECOME HABITUAL OFFENDERS -- PROGRESSIVELY COMMITTING MORE SERIOUS AND MORE VIOLENT CRIMES.

MARVIN WOLFGANG'S FAMOUS STUDY IN PHILADELPHIA SHOWED THAT SEVEN PERCENT OF MALE YOUTHS WERE RESPONSIBLE FOR ABOUT TWO-THIRDS OF ALL SERIOUS OFFENSES COMMITTED BY JUVENILES.

LATER STUDIES IN PHILADELPHIA FOUND THAT 15 PERCENT OF JUVENILES ACCOUNTED FOR 82 PERCENT OF THE SERIOUS OFFENSES COMMITTED BY JUVENILES.

WOLFGANG'S STUDIES SUGGEST THAT, BY THE THIRD ARREST, A JUVENILE DELINQUENT IS ALMOST SURE TO CONTINUE IN A LIFE OF CRIME.

THE JUVENILE JUSTICE SYSTEM NEEDS TO DO TWO THINGS BETTER. FIRST, IT HAS TO BE MORE EFFECTIVE AT INTERVENING EARLY ENOUGH TO DIVERT TROUBLED YOUTHS AWAY FROM A CAREER OF CRIME. SECOND, IT HAS TO BE MORE EFFECTIVE AT IDENTIFYING AND DEALING DECISIVELY WITH THE CHRONIC OFFENDER WHO HAS EMBARKED ON A CAREER OF CRIME.

THE PROBLEM IS AN URGENT ONE. TODAY, JUVENILES ARE RESPONSIBLE FOR A LARGE PART OF THE VIOLENT CRIME WE SEE ABOUT US.

WHEN YOU LOOK AT THE PERCENTAGE OF TOTAL CRIME THAT IS COMMITTED BY JUVENILES, THE NEWS IS DISHEARTENING:

-- JUVENILES UNDER 18 ACCOUNTED FOR

-- 33% OF ALL BURGLARY --

-- 30% OF ALL LARCENY --

-- 24% OF ALL ROBBERY --

-- 15% OF ALL RAPE.

-- AND, 14% (OR 1 IN 7) OF ALL MURDER AND NONNEGLIGENT MANSLAUGHTER.

-- AND IF YOU ADD 18 YEAR-OLDS INTO THE EQUATION, THE NUMBERS ARE EVEN MORE STAGGERING. FOR EXAMPLE, IN 1990 PERSONS UNDER 19 ACCOUNTED FOR OVER 21% OF ALL ARRESTS FOR MURDER.

WORSE STILL, THE RATE OF JUVENILE CRIME CONTINUES TO INCREASE, AND THIS INCREASE AMONG JUVENILES IS DRIVING MUCH OF THE GENERAL INCREASE IN CRIME WE ARE SEEING TODAY.

FOR EXAMPLE, BETWEEN 1965 AND 1989 --

-- THE ARREST RATE OF JUVENILES FOR MURDER ALMOST TRIPLED.

-- THE RATE OF AGGRAVATED ASSAULT TRIPLED.

-- AND THE RATE OF WEAPONS VIOLATIONS INCREASED BY 2 AND 1/2 TIMES.

WITH NUMBERS LIKE THESE, ONE THING IS CLEAR -- IF WE ARE GOING TO DEAL EFFECTIVELY WITH VIOLENT CRIME GENERALLY, WE ARE GOING TO HAVE TO IMPROVE THE WAY WE ARE DEALING WITH JUVENILES.

II.

BROADLY DEFINED, I SEE THE JUVENILE JUSTICE SYSTEM AS COMPRISED OF THREE DISTINCT COMPONENTS:

FIRST, THERE IS THE CONSTELLATION OF PRIVATE AND PUBLIC INSTITUTIONS THAT SOCIALIZE THE CHILD AND SHAPE HIS OR HER MORAL CHARACTER.

SECOND, THERE IS THE OFFICIAL JUVENILE DELINQUENCY SYSTEM -- INCLUDING THE JUVENILE COURTS -- THAT IS DESIGNED PRIMARILY TO INTERCEDE IN THE JUVENILE'S LIFE EARLY ENOUGH TO STRAIGHTEN OUT THE BASICALLY GOOD KID WHO HAS "STRAYED" AND TO PREVENT THE

DELINQUENT CHILD FROM BECOMING THE CAREER CRIMINAL OFFENDER. THE PRIMARY GOAL IS TO DO WHAT IS "BEST FOR THE CHILD".

FINALLY, THERE IS THE REGULAR CRIMINAL JUSTICE SYSTEM THAT MUST TAKE OVER WHEN THE JUVENILE DELINQUENCY SYSTEM FAILS TO TURN AROUND THE YOUTHFUL OFFENDER OR WHEN THE JUVENILE'S OFFENSE IS SUFFICIENTLY SERIOUS. AT THIS STAGE, SOCIETY'S PRIMARY GOAL SHIFTS FROM SERVING THE BEST INTERESTS OF THE CHILD TO SERVING THE BEST INTERESTS OF SOCIETY.

IN MY VIEW, WE MUST TAKE A HARD LOOK AT EACH OF THESE THREE STAGES OF THE JUVENILE JUSTICE SYSTEM AND APPLY SOME COMMON SENSE TO MAKE THEM WORK BETTER.

III.

FIRST, SOCIETY'S CONCERN OVER HOW WE DEAL WITH JUVENILES SHOULD NOT START AFTER THE JUVENILE HAS ALREADY GONE ASTRAY.

THE FIRST PART OF ANY MEANINGFUL JUVENILE JUSTICE REFORM MUST INVOLVE THE STRENGTHENING OF SOCIETY'S MOST IMPORTANT SOCIALIZING INSTITUTIONS -- THE FAMILY, SCHOOLS, COMMUNITY ASSOCIATIONS AND RELIGIOUS INSTITUTIONS. THESE ARE THE PRIMARY VEHICLES BY WHICH VALUES AND ETHICS ARE INSTILLED IN OUR CHILDREN, AND THEIR IMPORTANCE CANNOT BE OVERSTATED.

THE DRAMATIC INCREASE IN THE RATE OF JUVENILE DELINQUENCY AND CRIME OVER THE LAST 30 YEARS CORRESPONDS WITH, AND IN MY VIEW HAS BEEN FUELED BY, THE BREAKDOWN OF THESE IMPORTANT INSTITUTIONS.

TAKE FOR EXAMPLE THE FAMILY. JACK KEMP HAS CALLED THE FAMILY THE ORIGINAL DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE. IT IS ALSO, IN SOME MEASURE, A DEPARTMENT OF JUSTICE: THE FAMILY IS PERHAPS THE SINGLE MOST IMPORTANT SOURCE OF THE VALUES THAT WILL DETERMINE WHETHER A CHILD WILL RESPECT AND ABIDE BY THE LAW. WE ALL KNOW THAT KIDS FROM DYSFUNCTIONAL FAMILIES ARE MUCH MORE LIKELY TO GET IN TROUBLE WITH THE LAW THAN KIDS FROM STRONG FAMILIES.

YET TODAY WE SEE OUR FAMILIES UNDER SIEGE, AND WE SEE THAT MANY OF OUR GOVERNMENTAL POLICIES HAVE BEEN ACCOMPLICES TO THE BREAKDOWN OF THE FAMILY.

FOR EXAMPLE, RATHER THAN STRENGTHEN FAMILIES, THE WELFARE POLICIES OF THE SO-CALLED GREAT SOCIETY CONTAINED PERVERSE INCENTIVES THAT ACTUALLY REWARDED AND PROMOTED NON-MARRIAGE AND ILLEGITIMACY.

AND THESE PERVERSE POLICIES HAVE WROUGHT HAVOC WITH THE FAMILY. SINCE 1965, THE PERCENTAGE OF CHILDREN BORN OUT OF WEDLOCK HAS MORE THAN TRIPLED, ABOUT 8 PERCENT IN 1965 TO ABOUT

25 PERCENT TODAY. ILLEGITIMACY RATES IN OUR INNER CITIES ARE EVEN WORSE, TYPICALLY IN THE 60 PERCENT RANGE. IN 1989, FOR EXAMPLE, 64% OF ALL CHILDREN BORN IN THE DISTRICT OF COLUMBIA WERE BORN TO UNMARRIED MOTHERS.

HAVING WITNESSED IN THE BREAKDOWN OF THE FAMILY -- THE PRIMARY TEACHER OF VALUES -- WE SHOULD HARDLY BE SURPRISED BY THE RISE IN JUVENILE DELINQUENCY AND JUVENILE CRIME.

IN HIS STATE OF THE UNION ADDRESS, PRESIDENT BUSH CALLED FOR FUNDAMENTAL REFORM OF OUR WELFARE POLICIES. PART OF THIS REFORM MUST REVERSE THE INCENTIVES SO THAT INSTEAD OF ENCOURAGING NON-MARRIAGE AND ILLEGITIMACY, WE ACTUALLY PROMOTE STABLE FAMILY LIFE.

I APPLAUD GOVERNOR THOMPSON FOR HIS LEADERSHIP EFFORTS IN REFORMING THE WELFARE SYSTEM.

ANOTHER AREA WHERE GOVERNMENT POLICIES HAVE ACTUALLY UNDERMINED FAMILIES IS IN TAX POLICY.

IN THE 1940'S WE ADOPTED THE DEPENDENT EXEMPTION. THIS WAS ENLIGHTENED BECAUSE IT SOUGHT TO ENSURE THAT FAMILIES WITH CHILDREN WOULD HAVE THE RESOURCES NECESSARY TO SUSTAIN THEMSELVES. UNFORTUNATELY, OVER THE PAST 40 YEARS WE HAVE NOT ADJUSTED THE DEPENDENT EXEMPTION FOR INFLATION. IF WE HAD IT

WOULD BE SEVERAL THOUSAND DOLLARS PER CHILD TODAY. THE EROSION OF THE DEPENDENT EXEMPTION HAS MEANT THAT THE GOVERNMENT HAS BEEN TAXING AWAY FROM FAMILIES THE BASIC RESOURCES NEEDED TO RAISE CHILDREN.

IN THE REAGAN ADMINISTRATION, WE TOOK THE FIRST STEP TO ADDRESS THIS BY INCREASING THE EXEMPTION FROM \$1000 TO \$2000 AND INDEXING IT. PRESIDENT BUSH HAS NOW PROPOSED RAISING THE EXEMPTION BY ANOTHER \$500 PER CHILD AS A FURTHER STEP IN RESTORING THE DEPENDENT EXEMPTION. THIS IS AN IMPORTANT REFORM THAT IS CRITICAL TO THE LONG-TERM HEALTH OF OUR FAMILIES.

BEYOND THE FAMILY, SCHOOLS HAVE HISTORICALLY PLAYED AN IMPORTANT ROLE IN SOCIALIZING CHILDREN AND IN THEIR MORAL FORMATION.

IT USED TO BE THAT SCHOOLS OPERATED IN LOCO PARENTIS -- IN THE SHOES OF THE PARENT -- AND TAUGHT THE CHILD ABOUT PERSONAL RESPONSIBILITY AND ACCOUNTABILITY.

AND TODAY -- MORE THAN EVER -- PARENTS WANT SCHOOLS TO HELP THEM INSTILL VALUES IN THEIR CHILDREN.

UNFORTUNATELY, OVER THE PAST THREE DECADES, THE ABILITY OF PUBLIC SCHOOLS TO EXERCISE ANY MORAL INFLUENCE HAS BEEN STEADILY WEAKENED.

BECAUSE OF LEGAL DECISIONS AND MISGUIDED PUBLIC POLICY, THE RANGE OF SCHOOLS DISCIPLINARY POWERS HAS BEEN VASTLY CIRCUMSCRIBED. SCHOOL OFFICIALS ARE NOW RELUCTANT TO EXERCISE DISCIPLINE OR CONTROL OVER THE TROUBLESOME STUDENTS.

MOREOVER, THERE HAS BEEN AN EFFORT -- LARGELY SUCCESSFUL -- TO DRIVE OUT OF SCHOOLS AND PUBLIC EDUCATION ANY KIND OF MORAL PERSPECTIVE OR MORAL CONTENT.

THIS MORAL LOBOTOMY OF PUBLIC SCHOOLS HAS BEEN BASED ON EXTREMIST NOTIONS OF SEPARATION OF CHURCH AND STATE OR ON THEORIES OF MORAL RELATIVISM WHICH REJECT THE NOTION THAT THERE ARE STANDARDS OF RIGHT OR WRONG TO WHICH THE COMMUNITY CAN DEMAND ADHERENCE.

WHATEVER THE BASIS FOR DRIVING ANY MORAL PERSPECTIVE FROM PUBLIC SCHOOLS, IT IS DIFFICULT TO SEE HOW SCHOOLS CAN HELP INCULCATE VALUES IN AN ATMOSPHERE OF COMPLETE MORAL RELATIVISM -- HOW CAN SCHOOLS HELP TEACH SUCH SIMPLE THINGS AS THE IMPORTANCE OF HONESTY, OF RESPECT FOR PROPERLY CONSTITUTED AUTHORITY, OF THE IMPORTANCE OF DEFERRAL OF GRATIFICATION.

TODAY, MANY OF OUR PUBLIC SCHOOLS ARE THEMSELVES RIDDLED WITH VIOLENT CRIME. AN ESTIMATED 9% OF STUDENTS AGES 12 - 19 (1.8 MILLION) WERE CRIME VICTIMS IN OR AROUND SCHOOL OVER A 6-

MONTH PERIOD IN 1989. FIFTEEN PERCENT OF THE STUDENTS SAID THEIR SCHOOL HAD GANGS, AND 16% CLAIMED THAT A STUDENT HAD ATTACKED OR THREATENED A TEACHER AT THEIR SCHOOL. IN 1987, AN ESTIMATED 400,000 BOYS TOOK GUNS TO SCHOOL.

IT IS CLEAR THAT TODAY OUR SCHOOLS, AS A GROUP, ARE MUCH LESS EFFECTIVE AT HELPING TO KEEP KIDS ON THE STRAIGHT AND NARROW. IT IS ALSO CLEAR THAT IF WE ARE TO MAKE HEADWAY IN HELPING TROUBLED YOUNG PEOPLE MATURE INTO LAW-BIDING, PRODUCTIVE CITIZENS, WE ARE GOING TO HAVE TO REFORM OUR EDUCATIONAL SYSTEMS AND RESTORE SOME MORAL AUTHORITY TO OUR SCHOOLS. SCHOOLS MUST BECOME A WORKING PARTNER WITH PARENTS AND WITH SOCIAL AGENCIES -- BOTH PUBLIC AND PRIVATE -- IN FORMING GOOD CHARACTER IN OUR YOUNG CITIZENS.

IN SUM, CRIMINAL LAW SHOULD NOT BE A YOUNG PERSON'S FIRST BRUSH WITH VALUES; WITH MORALS; WITH RIGHT AND WRONG; CONSEQUENCES AND RESPONSIBILITY; AND WITH PUNISHMENT.

I UNDERSTAND THAT REFORM OF OUR POLICIES CONCERNING THESE IMPORTANT MEDIATING INSTITUTIONS IS BEYOND THE PURVIEW OF MY DUTIES AS ATTORNEY GENERAL. MY POINT, IS, HOWEVER, THAT THE PROBLEM OF SERIOUS JUVENILE DELINQUENCY AND CRIME CANNOT BE LEFT SOLELY TO THE MECHANISMS OF THE FORMAL JUVENILE JUSTICE SYSTEM. ANY MEANINGFUL APPROACH TO THIS PROBLEM MUST BEGIN WITH A

BOLSTERING OF THE CORE SOCIAL INSTITUTIONS THAT HELP SHAPE THE DEVELOPMENT OF OUR CHILDREN.

IV.

LET ME TURN NOW TO OUR FORMAL JUVENILE JUSTICE SYSTEM.

WHAT HAPPENS WHEN A JUVENILE RUNS AFOUL OF THE CRIMINAL LAW? AT BOTH THE STATE AND FEDERAL LEVEL, AS I HAVE SUGGESTED, THERE IS A TWO-TRACK SYSTEM OF JUVENILE JUSTICE.

THE VAST MAJORITY OF JUVENILE OFFENSES ARE DEALT WITH ON THE JUVENILE DELINQUENCY TRACK. THIS TRACK INCLUDES THE JUVENILE COURTS AND VARIOUS SOCIAL WELFARE ORGANIZATIONS THAT INTERCEDE INTO A JUVENILE'S AFFAIRS. THE PRIMARY GOAL IS REHABILITATING THE JUVENILE.

THE OTHER -- AND LESS USED -- TRACK IS THE TRADITIONAL CRIMINAL JUSTICE SYSTEM, WHICH PROSECUTES SERIOUS JUVENILE OFFENSES IN THE SAME MANNER AS SERIOUS CRIMES COMMITTED BY ADULTS. ON THIS TRACK, THE GOAL OF REHABILITATION IS NECESSARILY SUBORDINATED TO THE PARAMOUNT OBJECTIVE OF PROTECTING SOCIETY.

IN MY VIEW, THE KEY TO AN OVERALL EFFECTIVE JUVENILE JUSTICE SYSTEM IS THE COORDINATED OPERATION OF THESE TRACKS.

IN PARTICULAR, I BELIEVE WE MUST FOCUS REFORM IN TWO AREAS. FIRST, THE JUVENILE DELINQUENCY TRACK MUST BE BEEFED UP SO THAT IT INTERVENES EARLY AND STERNLY TO MAKE THE JUVENILE ACCOUNTABLE FOR HIS OR HER ACTIONS AND STOPS FURTHER DETERIORATION OF THE JUVENILE'S CONDUCT.

SECOND, WE MUST REALIZE WHEN IT IS TIME TO SWITCH FROM TRACK 1 TO TRACK 2 -- I.E., WHEN THE PROTECTION OF SOCIETY REQUIRES THAT THE CHRONIC OR SERIOUS JUVENILE OFFENDER BE TREATED LIKE AN ADULT AND BE APPROPRIATELY PUNISHED.

LET ME EXPLAIN WHAT I MEAN.

A.

CURRENTLY, AT BOTH THE STATE AND FEDERAL LEVELS, THE VAST MAJORITY OF JUVENILE CRIME IS REFERRED TO WHAT I HAVE CALLED TRACK 1 -- EITHER THE JUVENILE COURTS OR TO SOCIAL WELFARE ORGANIZATIONS FOR DISPOSITION.

-- THE FBI REPORTS THAT 31% OF ALL JUVENILES ARRESTED IN 1990 WERE EITHER RELEASED IMMEDIATELY OR REFERRED TO A SOCIAL WELFARE AGENCY FOR DISPOSITION.

-- 64% OF THOSE JUVENILES ARRESTED WERE REFERRED TO THE JUVENILE COURTS.

-- 5% OF THE JUVENILE OFFENDERS ARRESTED WERE REFERRED DIRECTLY TO THE REGULAR CRIMINAL COURTS FOR PROSECUTION.

THE PUNISHMENTS IMPOSED BY THE JUVENILE COURTS AND THE JUVENILE DELINQUENCY SYSTEM ARE ALL TOO OFTEN LIGHT AND INEFFECTIVE, EVEN FOR SERIOUS OFFENSES.

INDEED, THIS FACT HAS NOT BEEN LOST ON ORGANIZED CRIME. TODAY, OUR YOUTH ARE BEING RECRUITED BY ORGANIZED DRUG CONSPIRATORS BECAUSE OF THE HIGH PROBABILITY THAT, IF CAUGHT, THEY WILL RECEIVE LITTLE TO NO PUNISHMENT FROM THE JUVENILE COURTS.

FACING NO REAL PUNISHMENT, THE JUVENILE IS LESS LIKELY TO "RAT" ON THE CRIMINAL ORGANIZATION THAN AN ADULT CO-CONSPIRATOR, WHO MIGHT COOPERATE WITH THE GOVERNMENT AS PART OF A DEAL FOR LESS TIME.

IT IS COMMON KNOWLEDGE AMONG LAW ENFORCEMENT PROFESSIONALS THAT GANG AND DRUG ORGANIZATIONS "LET THE KID DO IT" TO AVOID SERIOUS PUNISHMENT FOR THEIR CRIMES.

-- FOR EXAMPLE, RECENTLY IN WASHINGTON, D.C., A 14-YEAR-OLD DRUG RUNNER WAS USED TO SHOOT AND KILL 3

PEOPLE ON THE SAME DAY. 26 MONTHS LATER, HE WAS
BACK ON THE STREETS OF WASHINGTON.

INDEED, ONLY A SMALL PERCENTAGE -- ABOUT 9% -- OF THE
JUVENILE CRIMINAL OFFENDERS WHO ARE REFERRED TO THE JUVENILE
DELINQUENCY SYSTEM RECEIVE ANY DETENTION IN A JUVENILE
RESIDENTIAL FACILITY.

EVEN IN THE FEDERAL SYSTEM, THE PUNISHMENTS FOR JUVENILES
PROCESSED ON THE JUVENILE DELINQUENCY TRACK ARE VERY LIMITED.

-- FOR EXAMPLE, FOR A JUVENILE WHO IS UNDER 18, EVEN THE
MILD PUNISHMENT OF PROBATION CANNOT BE IMPOSED BEYOND
HIS 21ST BIRTHDAY, NO MATTER HOW SERIOUS HIS CRIME,
UNLESS THE JUVENILE IS TRIED AS AN ADULT.

-- SIMILARLY, NO MATTER HOW SERIOUS THE CRIME, A JUVENILE
UNDER 18 CANNOT BE PLACED IN DETENTION FOR LONGER THAN
3 YEARS UNDER THE FEDERAL JUVENILE DELINQUENCY STATUTE.

IN MY VIEW, WHEN THE JUVENILE DELINQUENCY SYSTEM DEALS WITH
A SERIOUS OFFENDER TOO LENIENTLY IT IS SERVING NEITHER THE
JUVENILE NOR SOCIETY.

I BELIEVE STATES MUST RESPOND TO JUVENILE DELINQUENCY WITH
MORE OF WHAT IS CALLED "TOUGH LOVE." THAT MEANS RESPONDING TO A

JUVENILE'S FIRST SERIOUS ACT OF CRIMINAL DELINQUENCY SWIFTLY AND STERNLY, AND PUNISHING SUBSEQUENT OFFENSES, PARTICULARLY VIOLENT CRIME, WITH TOUGHER SANCTIONS.

STUDIES SUGGEST THAT FAILURE TO IMPOSE CONTROLS AND DISCIPLINE EARLY CAN ENCOURAGE FURTHER DELINQUENCY.

AS I HAVE SAID, THERE IS EVIDENCE THAT BY THE THIRD ARREST OR SO FOR A SERIOUS CRIME, THE JUVENILE HAS EMBARKED ON A CAREER OF CRIME THAT WILL USUALLY PROVE TO BE IRREVERSIBLE.

OUR OBJECT MUST BE TO INTERVENE ENERGETICALLY AS EARLY AS POSSIBLE TO TURN AROUND THOSE KIDS WHO HAVE ANY RECEPTIVITY TO CORRECTION.

IF THE STATE INTERVENES EARLY WITH MEANINGFUL (THOUGH NOT OVERLY SEVERE) SANCTIONS, THE WAYWARD JUVENILE IS LESS LIKELY TO END UP AS A CAREER CRIMINAL OFFENDER.

CONVERSELY, IF THE SYSTEM METES OUT NO MEANINGFUL SANCTION FOR THE FIRST FEW OFFENSES -- FAILING TO HOLD THE JUVENILE ACCOUNTABLE -- THEN IT BECOMES A CONVEYOR BELT FOR CAREER CRIMINALS.

AS IN THE ADULT WORLD, THE PUNISHMENTS SHOULD "FIT THE CRIME."

I AM NOT SUGGESTING UNDULY HARSH RESTRICTIONS TO LESS-SERIOUS OFFENSES.

BUT THERE SHOULD BE A RESPONSE TO SUCH OFFENSES -- A RESPONSE THAT SENDS A STRONG MESSAGE TO THE JUVENILE, THAT TEACHES HIM ACCOUNTABILITY, AND THAT OFFERS AN OPPORTUNITY FOR REHABILITATION.

AND WHEN THE OFFENSE IS SERIOUS, THERE SHOULD BE AN EQUALLY SERIOUS RESPONSE -- UP TO AND INCLUDING DETENTION FOR THE VIOLENT OFFENDER.

THE SO-CALLED CONVENTIONAL WISDOM THAT DETENTION OF A YOUNG OFFENDER WILL SIMPLY TURN HIM INTO A MORE HARDENED CRIMINAL IS SIMPLY WRONG.

BUT WE DO HAVE TO BE SMARTER ABOUT THE KIND OF DETENTION AND PUNISHMENT WE IMPOSE.

SMART PUNISHMENTS ARE THOSE WHICH SEEK TO INSTILL IN A YOUNG OFFENDER THE VALUES, THE DISCIPLINE, THE RESPONSIBILITY THAT ARE NECESSARY FOR SELF-CONTROL.

WE KNOW THAT IF THE INDIVIDUAL IS RECEPTIVE, INSTITUTIONS CAN DO THIS. THE MARINE CORPS, THE IRISH CHRISTIAN BROTHERS,

BOYSTOWN -- THROUGHOUT OUR HISTORY SUCH INSTITUTIONS HAVE BUILT CHARACTER AND PRODUCED SOLID CITIZENS.

IN THIS REGARD, ONE INNOVATIVE OPTION FOR STATES IS BOOT CAMPS FOR JUVENILE OFFENDERS. THE JUSTICE DEPARTMENT, THROUGH THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, HAS RECENTLY AWARDED GRANTS TO FUND THREE SUCH EXPERIMENTAL JUVENILE BOOT CAMPS FOR NONVIOLENT OFFENDERS. AN EFFECTIVELY RUN BOOT CAMP CAN TEACH A FIRST-TIME JUVENILE OFFENDER ACCOUNTABILITY AND DISCIPLINE. OPERATED PROPERLY, A BOOT CAMP CAN ALSO INSTILL IMPORTANT NOTIONS OF TEAMWORK AND GROUP RESPONSIBILITY, AS WELL AS PRIDE IN ONE'S PHYSICAL AND ACADEMIC ACCOMPLISHMENTS.

IN KANSAS CITY, I SAW ANOTHER SMART OPTION -- WHICH CAN BE TIED EITHER TO DETENTION OR INTENSIVE PROBATION. THERE, FIRST-TIME OFFENDERS ARE PUT UNDER STRICT SUPERVISION AND USED ON NEIGHBORHOOD REHABILITATION PROJECTS. THEY ARE TAUGHT CONSTRUCTION SKILLS. SUCH PROJECTS NOT ONLY INSTILL DISCIPLINE AND A SOLID WORK ETHIC, THEY CAN ALSO HELP TEACH THE JUVENILE A TRADE THAT WILL HELP HIM GET A JOB ON HIS OWN.

ANOTHER EXAMPLE OF SMARTER DETENTION FOR JUVENILE OFFENDERS IS THE PAINT CREEK FACILITY IN SOUTHERN OHIO. THIS INNOVATIVE PROGRAM, FUNDED BY THE JUSTICE DEPARTMENT, EMPHASIZES VALUES THAT HAVE ALWAYS BEEN AN ESSENTIAL PART OF EVERY SUCCESSFUL FAMILY. PAINT CREEK STRESSES PERSONAL RESPONSIBILITY AND ACCOUNTABILITY

IN THE JUVENILE'S DAILY ACTIVITIES. BUT AT THE SAME TIME, THE HIGHLY MOTIVATED STAFF HAS ESTABLISHED AN ATMOSPHERE OF SUPPORT AND CARE. THESE COMBINED INGREDIENTS -- ACCOUNTABILITY AND CARE -- HAVE MADE A TREMENDOUS DIFFERENCE IN THE LIVES OF HUNDREDS OF YOUNG PEOPLE, MANY OF WHOM NEVER HAD SUCH AN ENVIRONMENT BEFORE IN THEIR LIVES. TO DATE, THIS PROGRAM HAS HAD AN EXTREMELY LOW RECIDIVISM RATE.

IN SUM THEN, IN MY VIEW, A STERN AND SMART RESPONSE THE FIRST TIME CAN HELP BOTH THE JUVENILE AND SOCIETY.

B.

NOW LET ME TURN TO TRACK 2 -- BRING SERIOUS JUVENILE OFFENDERS UNDER THE REGULAR CRIMINAL JUSTICE SYSTEM.

AS I SAID, THERE IS A SMALL GROUP OF JUVENILES WHO BECOME CHRONIC OFFENDERS, RESPONSIBLE FOR PROGRESSIVELY MORE VIOLENT CRIMES.

THIS HARDENED GROUP HAS PROVEN IMPERVIOUS TO REHABILITATION.

ONCE A JUVENILE HAS EMBARKED ON A CAREER OF CRIME, THE GOAL OF PROTECTING SOCIETY MUST BECOME PARAMOUNT.

OUR OBJECTIVE SHOULD BE TO IDENTIFY AS EARLY AS POSSIBLE THE

HABITUAL OFFENDER AND TO INCAPACITATE THAT OFFENDER THROUGH STIFF ADULT PENALTIES.

WE MUST STAND READY TO PROSECUTE AND PUNISH SERIOUS VIOLENT OFFENDERS AND REPEAT OFFENDERS AS ADULTS.

EVERY EXPERIENCED LAW ENFORCEMENT OFFICER HAS ENCOUNTERED 16- OR 17-YEAR-OLDS WHO ARE AS MATURE AND CRIMINALLY HARDENED AS ANY ADULT OFFENDERS.

PUBLIC SAFETY DEMANDS THAT THESE HABITUAL AND DANGEROUS CRIMINALS BE TRIED AND PUNISHED AS ADULTS.

UNFORTUNATELY, MANY OF OUR CRIMINAL JUSTICE SYSTEMS IN THIS COUNTRY, HARKEN BACK TO A MORE INNOCENT AGE, AND HAVE STRONG BUILT-IN PRESUMPTIONS AGAINST TREATING JUVENILES AS ADULTS.

IN GENERAL, I THINK WE HAVE TO PROVIDE GREATER FLEXIBILITY -- AND GIVE LAW ENFORCEMENT WIDER LATITUDE TO PROSECUTE SERIOUS JUVENILE OFFENDERS AS ADULTS.

WHILE THE PROCEDURE FOR CERTIFYING JUVENILES INTO ADULT COURTS IS AVAILABLE IN MOST STATES, IT CAN BE CUMBERSOME AND DIFFICULT, AND IN PRACTICE IT IS RARELY USED. THE RESULTING UNLIKELIHOOD AND UNCERTAINTY OF WAIVER INTO THE ADULT SYSTEM REDUCES OR ELIMINATES ANY DETERRENT EFFECT THAT THE THREAT OF

ADULT PROSECUTION COULD HAVE ON JUVENILES. AGAIN, EVERY LAW ENFORCEMENT PROFESSIONAL KNOWS THE STORIES OF JUVENILES WHO WHEN ARRESTED LAUGH IN THEIR FACES AND BRAG ABOUT HOW QUICKLY THEY'LL BE BACK ON THE STREETS.

MOREOVER, IN MANY STATES, THE RECORDS KEPT OF JUVENILE OFFENSES ARE WHOLLY INADEQUATE AND LAWS GOVERNING THE SHARING OF WHAT LITTLE INFORMATION DOES EXIST ARE UNDULY RESTRICTIVE.

WITHOUT MEANINGFUL AND ACCESSIBLE INFORMATION ABOUT A JUVENILE'S CRIMINAL HISTORY, IT IS VIRTUALLY IMPOSSIBLE TO DETERMINE WHETHER HE HAS BECOME THE SORT OF HABITUAL OFFENDER WHO SHOULD BE TRIED AS AN ADULT.

WHILE LAWS PROVIDING FOR THE SEALING OF JUVENILE RECORDS FOR PURPOSES OF LATER EMPLOYMENT APPLICATIONS MAY BE WARRANTED, THERE IS NO JUSTIFICATION FOR NOT KEEPING ADEQUATE JUVENILE CRIMINAL HISTORY RECORDS AND SHARING THAT INFORMATION WITH OTHER PARTS OF THE CRIMINAL JUSTICE SYSTEM.

THE THEORY OF SEALING THESE RECORDS IS TO GIVE A CLEAN SLATE TO THE JUVENILE WHO COMMITTED A YOUTHFUL ERROR BUT HAS SINCE MENDED HIS WAYS. THAT THEORY SIMPLY DOES NOT APPLY WHERE THE JUVENILE CONTINUES TO COMMIT CRIMES.

C.

LET ME TELL YOU SOME OF THE MEASURES WE ARE CONSIDERING AT THE FEDERAL LEVEL TO STRENGTHEN OUR ABILITY TO DEAL WITH JUVENILE CRIME.

FIRST, THE DEPARTMENT OF JUSTICE IS NOW IN THE PROCESS OF PROMULGATING A RULE THAT WOULD AUTHORIZE THE FBI TO INCLUDE JUVENILE RECORDS IN THE FBI CRIMINAL HISTORY INFORMATION SYSTEM. CURRENTLY, OFFENSES COMMITTED BY JUVENILE OFFENDERS CANNOT BE INCLUDED UNLESS THE JUVENILE WAS TRIED AS AN ADULT.

THE PURPOSE OF THE PROPOSED RULE IS TO MAKE THE RECORDS OF SERIOUS CRIMES COMMITTED BY JUVENILES AVAILABLE FOR LAW ENFORCEMENT AND JUDICIAL USE.

THE RULE DOES NOT COMPEL THE STATES TO PROVIDE SUCH INFORMATION TO THE FBI, BUT ONLY PROVIDES THE FBI WITH THE SAME AUTHORITY TO RECEIVE JUVENILE RECORDS. STATE LAW AND POLICY WILL DICTATE WHETHER A STATE FORWARDS JUVENILE RECORDS, AND IF SO, WHAT TYPES OF RECORDS ARE FORWARDED.

WE HAVE RECEIVED COMMENTS ABOUT THE PROPOSED RULE, INCLUDING SOME EXPRESSING CONCERNS ABOUT BLURRING THE DISTINCTIONS BETWEEN THE ADULT AND JUVENILE SYSTEMS. OVERALL, I

BELIEVE THAT THE BASIC PREMISE OF THE RULE IS SOUND, AND THAT THESE JUVENILE RECORDS ARE IMPORTANT TO OUR LAW ENFORCEMENT SYSTEM.

SECOND, I AM CONSIDERING AMENDMENTS TO THE FEDERAL CODE THAT WOULD GIVE THE FEDERAL GOVERNMENT MORE FLEXIBILITY TO TRY JUVENILES AS ADULTS.

UNDER CURRENT LAW, A JUVENILE MAY BE TRIED AS AN ADULT IN THE FEDERAL SYSTEM ONLY FOR CERTAIN VIOLENT FELONIES OR SERIOUS DRUG OFFENSES, AND ONLY IF HE MEETS CERTAIN AGE REQUIREMENTS.

MOREOVER, UNDER CURRENT LAW, THERE IS A PRESUMPTION AGAINST ADULT PROSECUTION THAT CAN BE OVERCOME ONLY BY A FINDING BY THE FEDERAL COURT THAT IT IS "IN THE INTEREST OF JUSTICE" TO TRANSFER THE JUVENILE TO THE ADULT SYSTEM.

WE ARE CONSIDERING CHANGING THIS SYSTEM IN TWO WAYS.

FIRST, WE MAY PROPOSE TO BROADEN THE TYPES OF CRIMES FOR WHICH ADULT PROSECUTION IS AVAILABLE TO OTHER AREAS OF STRONG FEDERAL LAW ENFORCEMENT INTEREST. IN ADDITION TO VIOLENT FELONIES AND SERIOUS DRUG CRIMES, WE ARE CONSIDERING ADDING SERIOUS FIREARMS OFFENSES AND CERTAIN OTHER GANG-RELATED CRIMES WHERE THERE IS A STRONG FEDERAL INTEREST.

SECOND, WE MAY SUGGEST CERTAIN ADJUSTMENTS IN THE CURRENT AGE REQUIREMENTS AND IN THE PRESUMPTIONS AND THE REQUIRED COURT APPROVALS TO MAKE IT LESS DIFFICULT TO TRY JUVENILES, ESPECIALLY REPEAT OFFENDERS, AS ADULTS IN APPROPRIATE CASES.

LET ME MAKE CLEAR WHAT WE ARE NOT CONSIDERING. WE ARE NOT SUGGESTING THAT THE PROSECUTION OF JUVENILE CRIME SHOULD BE FEDERALIZED. ON THE CONTRARY, AS IS THE CASE WITH VIOLENT CRIME GENERALLY -- WHERE 95% OF THE CASES ARE HANDLED BY THE STATES -- THE PRIMARY RESPONSIBILITY FOR THE PROSECUTION OF JUVENILE OFFENDERS LIES WITH THE STATES. THE IDEAS THAT I HAVE DISCUSSED TODAY RELATE ONLY TO CERTAIN UNIQUELY SERIOUS FEDERAL OFFENSES THAT THE FEDERAL GOVERNMENT HAS A STRONG INTEREST IN PROSECUTING.

ON THE OTHER HAND, I HOPE THAT THE STATES WILL AMEND THEIR CODES WHERE NECESSARY TO ALLOW FOR THE ADULT PROSECUTION AND PUNISHMENT OF JUVENILES WHO COMMIT SERIOUS, VIOLENT ACTS OR WHO ARE REPEAT FELONS. INDEED, I UNDERSTAND THAT MANY STATES HAVE ALREADY MADE SUBSTANTIAL PROGRESS IN AMENDING THEIR LAWS TO ALLOW FOR THE ADULT PROSECUTION OF SERIOUS JUVENILE OFFENDERS. I APPLAUD AND ENCOURAGE THAT TREND.

IN THAT REGARD, I UNDERSTAND THAT GOVERNOR THOMPSON HAS MADE A NUMBER OF PROPOSALS TO MODIFY THE WISCONSIN JUVENILE JUSTICE SYSTEM THAT ARE CONSISTENT WITH MY THEMES TODAY. IN PARTICULAR, HE HAS PROPOSED AMENDMENTS TO ALLOW FOR THE ADULT PROSECUTION OF

YOUTH FOR NUMEROUS SERIOUS OFFENSES, INCLUDING VIOLATIONS IN FURTHERANCE OF CRIMINAL ACTIVITY BY AN ORGANIZED GANG. I STRONGLY SUPPORT HIS EFFORTS TO RESPOND TO THESE VIOLENT JUVENILE OFFENDERS.

* * *

IN SUM, THE KEY TO EFFECTIVE JUVENILE JUSTICE REFORM CAN BE BOILED DOWN TO FOUR COMMON SENSE IDEAS: FIRST, WE MUST BOLSTER THOSE INSTITUTIONS IN OUR SOCIETY THAT PREVENT THE JUVENILE FROM TURNING TO CRIME IN THE FIRST PLACE. SECOND, WE MUST REACT SWIFTLY AND STERNLY TO A JUVENILE'S FIRST TRANSGRESSION OF THE LAW TO PREVENT FURTHER DETERIORATION. THIRD, WE MUST RECOGNIZE WHEN THE JUVENILE DELINQUENT HAS BECOME THE SERIOUS, CAREER CRIMINAL OFFENDER AND DEAL WITH HIM APPROPRIATELY. FINALLY, IN ORDER TO MAKE THIS SYSTEM WORK, THE STATES AND THE FEDERAL GOVERNMENT MUST WORK TOGETHER TO KEEP AND SHARE MEANINGFUL RECORDS OF A JUVENILE'S CRIMINAL HISTORY.

THANK YOU.

Barr proposes crackdown on juvenile crime

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Body

While decrying the "moral lobotomy of public schools" and tax and welfare policies he contends undercut stable families, Attorney General William P. Barr called Wednesday for tougher punishment of juvenile offenders to reduce violent crime.

In his first major statement on juvenile delinquency since he became the nation's chief law enforcement officer, Barr also urged changes in the juvenile justice system that would allow authorities to reach troubled youths earlier.

Speaking to the Wisconsin Governor's Conference on juvenile crime, drugs and gangs, Barr dismissed as "simply wrong" the conventional wisdom that detaining a young offender will make him a more hardened criminal.

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"The punishments imposed by the juvenile courts and the juvenile delinquency system are all too often light and ineffective, even for serious offenses," Barr said.

While acknowledging that the prosecution of juvenile crime was primarily a responsibility of states, Barr said changes in the federal system also were under consideration.

Calling the problem "urgent," Barr said criminals under the age of 18 account for 33 percent of all burglaries, 30 percent of larcenies, 24 percent of robberies, 15 percent of rapes and 14 percent of all murder and non-negligent manslaughter.

"The rate of juvenile crime continues to increase, and this increase among juveniles is driving much of the general increase in crime we are seeing today," Barr said.

But law enforcement cannot solve the problem alone, he said, adding that meaningful reform must strengthen social institutions, including the family and schools.

He called for reversing government policies, such as welfare programs, that he said discourage marriage and reward illegitimacy.

He was most critical of what he called an erosion of the public schools' ability to exercise moral influence over children.

"This moral lobotomy of public schools has been based on extremist notions of separation of church and state" and the rejection of the notion "that there are standards of right or wrong to which the community can demand adherence," Barr said.

Barr proposes crackdown on juvenile crime

He called for early identification of habitual offenders who commit progressively more violent crimes and stepped up efforts to punish them as adults.

He backed easing restrictions on the dissemination within the criminal justice system of a juvenile's criminal record, contending that lack of access hampers prosecution.

The Justice Department is preparing to authorize the FBI to include juvenile records in its criminal history information system. Now only juveniles tried as adults are included. The rule would authorize the FBI to receive the information but not compel states to provide it, Barr said.

Graphic

Los Angeles Times

Load-Date: April 30, 1992

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REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE
INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS
BOSTON, MASSACHUSETTS

MARCH 27, 1992

THANKS FOR INVITING ME HERE TONIGHT. IT'S A REAL HONOR FOR ME TO JOIN THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS FOR YOUR ANNUAL DINNER. YOUR WORK IS GOVERNMENT'S MOST IMPORTANT WORK: PROTECTING THE PUBLIC SAFETY.

AT THE DEDICATION LAST YEAR IN WASHINGTON OF THE LAW ENFORCEMENT OFFICERS MEMORIAL, I HAD THE OPPORTUNITY TO SPEAK ABOUT THE SITUATION IN SAINT CROIX, VIRGIN ISLANDS AFTER HURRICANE HUGO SWEEPED THROUGH. I TALKED ABOUT THE ANARCHY, THE VIOLENCE AND THE LAWLESSNESS THAT SEIZED THAT ISLAND FOR THREE DAYS.

I DESCRIBED HOW CITIZENS HAD TO SWIM OUT 200 YARDS TO THE COAST GUARD CUTTERS JUST TO ESCAPE THE LAW OF THE JUNGLE THAT EXISTED ON THAT ISLAND. I DESCRIBED HOW, WHEN THE LAW ENFORCEMENT OFFICERS FINALLY ARRIVED, THEY WERE CHEERED AS LIBERATING HEROES.

I TRIED TO MAKE THE POINT THAT ANARCHY AND LAWLESSNESS LIE JUST BELOW THE SURFACE OF OUR SOCIETY. IN THE FINAL ANALYSIS, WHAT STANDS BETWEEN CHAOS AND THE PREDATORY VIOLENCE ON ONE HAND, AND CIVILIZED SOCIETY ON THE OTHER, IS THE THIN BLUE LINE OF LAW ENFORCEMENT.

I OBSERVED THAT WHEN OUR BRAVE TROOPS WENT OFF TO DESERT

STORM, THEY WERE CHEERED ALONG THE HIGHWAYS AS THEY WENT. WHEN THEY RETURNED IN VICTORY, THEY WERE GIVEN A TICKER TAPE PARADE -- AND RIGHTLY SO.

I NOTICED THAT WHEN POLICE OFFICERS LEAVE THEIR PRECINCTS EVERY MORNING, THERE ARE NO CROWDS ON THE HIGHWAY CHEERING THEM ON. AND WHEN THEY COME HOME AT THE END OF THE DAY AFTER A JOB WELL DONE, THERE ARE NO TICKER TAPE PARADES.

THE REASON FOR THAT IS NOT THAT THE WORK THAT LAW ENFORCEMENT OFFICERS DO IS NOT APPRECIATED -- OF COURSE, IT'S DEEPLY APPRECIATED BY CITIZENS. BUT IT'S BECAUSE LAW ENFORCEMENT IS FIGHTING A DIFFERENT TYPE OF WAR.

WE ARE FIGHTING AN UNRELENTING, NEVER-ENDING FIGHT AGAINST CRIMINAL PREDATORS IN OUR SOCIETY. WHILE THERE ARE BATTLES WON AND LOST EACH DAY, THERE IS NEVER A FINAL RESOLUTION -- A FINAL VICTORY IS NEVER IN SIGHT.

IT TAKES A VERY SPECIAL KIND OF COURAGE TO FIGHT THAT KIND OF WAR DAY IN AND DAY OUT. IT IS REALLY A PRIVILEGE TO ME TO HAVE BEEN INVITED HERE TONIGHT, TO HAVE THE OPPORTUNITY TO SALUTE YOU. I WOULD ALSO LIKE TO SALUTE THE THREE HONOREES TONIGHT.

GENERAL FREUND -- YOUR DISTINGUISHED CAREER AND YOUR COURAGE

SERVING OUR NATION ARE THE KIND OF COMMITMENT WE NEED MORE OF IN OUR SOCIETY.

NEWMAN [FLANIGAN] WILL BE JOINING US IN WASHINGTON IN THE NATIONAL DISTRICT ATTORNEYS' ASSOCIATION. WE NEED YOUR TALENT AND SKILL IN WASHINGTON.

AND OF COURSE WAYNE [BUDD] EXEMPLIFIES THE CALIBER OF PROFESSIONALISM THAT WE'RE LOOKING FOR IN THE DEPARTMENT OF JUSTICE. AND SO WE'RE SO PROUD OF THE RECORD THAT HE HAS ACHIEVED HERE IN MASSACHUSETTS. WHILE WE KNOW IT'S A LOSS HERE IN THIS COMMUNITY, WE REALLY NEED HIS LEADERSHIP IN WASHINGTON. SO I'M PRIVILEGED TO BE HERE TO PARTICIPATE IN HONORING THESE THREE INDIVIDUALS.

TONIGHT I WANT TO TALK TO YOU ABOUT VIOLENT CRIME, WHICH IS ONE OF MY TOP PRIORITIES AT ATTORNEY GENERAL OF THE UNITED STATES. WE ARE DOING ALL WE CAN TO SUPPORT OUR STATE AND LOCAL COLLEAGUES IN THEIR FRONT LINE EFFORTS AGAINST VIOLENT CRIME. VIOLENT CRIME IS A SERIOUS PROBLEM, AND WE ARE AT A SERIOUS JUNCTURE IN OUR SOCIETY.

MY PREDECESSOR DICK THORNBURGH USED TO SAY THAT BEFORE WE CAN GET KINDER AND GENTLER IN OUR COUNTRY, WE ARE GOING TO HAVE TO GET A LOT ROUGHER AND TOUGHER ON VIOLENT CRIME. HE WAS ABSOLUTELY CORRECT.

I WANT TO TALK TO YOU TONIGHT ABOUT HOW I THINK WE HAVE TO GET A LOT ROUGHER AND TOUGHER ON VIOLENT CRIME.

SPECIFICALLY, THE PROBLEM WITH VIOLENT CRIME TODAY IS THE PROBLEM OF THE REPEAT OFFENDER. IF WE ARE GOING TO HAVE ANY CHANCE OF REDUCING VIOLENT CRIME, WE HAVE TO GET A LOT TOUGHER WITH THE REPEAT OFFENDER.

STUDY AFTER STUDY SHOW THAT THERE IS A VERY TINY FRACTION OF THE POPULATION OF OUR SOCIETY THAT IS RESPONSIBLE FOR MOST OF THE PREDATORY VIOLENCE. THAT IS, THE POPULATION OF INCORRIGIBLE REPEAT OFFENDERS.

FOR EXAMPLE, A 1980 STUDY OF 240 INDIVIDUALS FOUND THAT OVER AN 11 YEAR PERIOD THEY COMMITTED 500,000 CRIMES -- THAT IS, 190 CRIMES A YEAR.

A 1982 RAND STUDY OF INCARCERATED STATE PRISONERS FOUND THAT THEY AVERAGE -- WHILE OUT ON THE STREETS -- OVER 180 CRIMES A YEAR. TEN PERCENT OF THAT PRISON POPULATION AVERAGES OVER 600 CRIMES A YEAR.

WITH THE DATA I'VE SEEN, I WOULD SAY THAT WELL UNDER ONE PERCENT -- PROBABLY IN THE NEIGHBORHOOD OF HALF OF ONE PERCENT --

OF THE POPULATION IS RESPONSIBLE FOR THE VAST MAJORITY OF VIOLENCE WE SEE ON THE STREETS.

YOU KNOW THE PROFILE OF THESE CAREER CRIMINALS. THEY START COMMITTING CRIMES WHEN THEY ARE JUVENILES, AND THEY KEEP RIGHT ON COMMITTING CRIMES AS ADULTS.

IF THEY ARE GIVEN BAIL, THEY COMMIT CRIMES WHILE THEY ARE ON BAIL. IF THEY ARE GIVEN PROBATION, THEY COMMIT CRIMES WHILE THEY ARE ON PROBATION. WHEN RELEASED FROM PRISON, WHETHER ON PAROLE OR EARLY RELEASE, THEY GO RIGHT ON COMMITTING CRIMES.

IN FACT, THE ONLY TIME WE'RE SURE THAT THESE PEOPLE ARE NOT COMMITTING CRIMES IS WHEN THEY ARE IN THE PRISON CELL. AND IN A WORD, THAT IS THE ANSWER: PRISON.

THE ONLY WHAT THAT WE CAN REDUCE THE LEVEL OF VIOLENT CRIME IN OUR SOCIETY IS TO TARGET THESE CHRONIC OFFENDERS, TAKE THEM OFF THE STREETS, INCAPACITATE THEM, GIVE THEM STIFF SENTENCES, AND MAKE THEM SERVE THE ENTIRE SENTENCE.

WE CAN DEBATE AD NAUSEAM THE "ROOT CAUSES" OF CRIME. WE CAN DEBATE WHETHER PRISON CAN REHABILITATE THE CRIMINAL. AND WE CAN DEBATE WHETHER OR NOT PRISON CAN DETER A CRIMINAL. BUT ONE THING IS BEYOND DEBATE: IMPRISONMENT INCAPACITATES THE CRIMINAL.

FOR EVERY YEAR THAT A CHRONIC OFFENDER SITS IN HIS PRISON CELL, WE KNOW WITH MORAL CERTAINTY THAT THERE ARE SCORES -- PERHAPS HUNDREDS -- OF FEWER CRIMES COMMITTED ON THE STREETS. AND THERE ARE SCORES -- PERHAPS HUNDREDS -- OF FEWER VICTIMS.

JUST THIS MORNING, THE CHIEF OF POLICE IN PHILADELPHIA SENT TO MY OFFICE SOME EXAMPLES OF THE PROBLEMS THAT THEY ARE HAVING. LET ME SHARE ONE CASE WHICH IS TYPICAL.

POLICE ARRESTED J.W. FOR BURGLARY AND THEFT APRIL 12, 1989. THAT IS THE FIRST CASE: HE FAILED TO APPEAR. ON NOVEMBER 15, 1989, HE WAS ARRESTED AGAIN FOR ROBBERY, ASSAULT AND THEFT. CASE NUMBER TWO: FAILED TO APPEAR. ON FEBRUARY 1, 1990, ARRESTED FOR BURGLARY AND THEFT. CASE NUMBER THREE: FAILED TO APPEAR. I WON'T BORE YOU WITH 12 SEPARATE ARRESTS FOR BURGLARY, THEFT, AUTO THEFT -- 12 CASES HE FAILED TO APPEAR. FINALLY, ON THE 12TH CASE HE WAS HELD IN PRE-TRIAL DETENTION.

NOW THE SIMPLE FACT IS THAT IF THIS INDIVIDUAL HAD BEEN HELD THE FIRST, SECOND OR THIRD TIME -- ALL THOSE OTHER CASES WOULD HAVE NEVER HAPPENED. AND YOU KNOW AND I KNOW THAT THE CRIMES FOR WHICH HE WAS CAUGHT WERE ONLY THE TIP OF THE ICEBERG.

THE FACT IS THAT TODAY WE COULD REDUCE CRIME DRAMATICALLY IN SOCIETY IF WE MADE EVERYONE IN PRISON SERVE THEIR FULL SENTENCE.

IN OUR LIFETIME OR IN THE LIFETIME OF OUR CHILDREN, THE ONLY WAY WE ARE GOING TO REDUCE VIOLENT CRIME IS TO PURSUE THIS POLICY OF INCAPACITATING VIOLENT OFFENDERS. THE HISTORY OF THE LAST 30 YEARS SHOWS CLEARLY THAT TOUGH INCARCERATION POLICIES WORK. THIS IS ONE OF THE BEST-KEPT SECRETS IN THE UNITED STATES.

IN THE 1950'S WE HAD SOME TOUGH INCARCERATION POLICIES. PEOPLE SERVED LONG SENTENCES, A HIGH PERCENTAGE OF PEOPLE WENT TO PRISON, AND WE HAD LOW LEVELS OF VIOLENCE.

THESE POLICIES WERE ABANDONED IN THE 1960'S AND 70'S.

CRIMINALS WERE VIEWED AS SOCIETY'S VICTIMS -- INSTEAD OF ITS VICTIMIZERS. INCARCERATION RATES DROPPED DRAMATICALLY DURING THE 60'S. IN FACT, DURING THE 60'S THE NUMBER OF PRISONS ACTUALLY FELL.

WHAT HAPPENED AS A RESULT OF THE LEVEL OF INCARCERATION RATES IN THE 60'S AND 70'S? VIOLENT CRIME SKYROCKETED. THERE WAS AN UNPRECEDENT GROWTH IN VIOLENT CRIME. IN THE 60'S, IT DOUBLED. BY THE END OF THE 70'S IT QUADRUPLED.

THE UNBELIEVABLE SPIRAL DURING THIS TWENTY YEAR PERIOD PEAKED IN 1980. WE STARTED TO COME TO OUR SENSES AND REACTED AGAINST THE EXCESS OF THE 60'S AND 70'S. WE BUILT PRISONS. THE FEDERAL GOVERNMENT DOUBLED ITS PRISON CAPACITY. THE PRISON

POPULATION WENT FROM 305,000 To 775,000 DURING THE DECADE. MANY STATES BUILT PRISONS. CALIFORNIA, FOR EXAMPLE, SPENT \$3.7 BILLION AND QUADRUPLED ITS PRISON CAPACITY. OTHER STATES FOLLOWED SUIT. IN ADDITION, THERE WAS LEGAL REFORM. THE FEDERAL LEVEL ABOLISHED PAROLE. WE EXECUTED PRE-TRIAL DETENTION. MANY STATES AGAIN FOLLOWED SUIT.

AND WHAT WAS THE RESULT OF THE INCREASE IN PRISONS AND INCARCERATION?

THE CRIME RATE PEAKED IN THE 80'S AND ACTUALLY STARTED DECLINING FOR SEVERAL YEARS. DURING THE 80'S, THERE WAS A DRAMATIC LEVELING OFF OF VIOLENT CRIME IN OUR SOCIETY. THIS IS BROUGHT OUT BY ALL THE STATISTICS -- THE FBI'S UCR AND ALL THE OTHER STATISTICAL INDICES.

NOW WE ARE FACING THE 90'S -- AND WHAT ARE WE GOING TO DO? ARE WE GOING TO SEE A RESUMPTION OF THOSE SKYROCKETING CRIME RATES THAT WE HAD IN THE 60'S AND 70'S? ARE WE GOING TO BE CONTENT JUST TO KEEP THE CRIME RATE AT AN UNACCEPTABLE HIGH LEVEL? OR ARE WE GOING TO ACTUALLY BE ABLE TO REDUCE THE LEVEL OF VIOLENCE IN OUR SOCIETY?

I THINK THE CHOICE IS CLEAR. IN ORDER TO REDUCE VIOLENCE, WE HAVE TO PRESS AHEAD WITH WHAT WE WERE CARRYING OUT IN THE

80'S. IN MY VIEW, WE DID ABOUT HALF THE JOB IN THE 80'S. IN THE 90'S WE ARE GOING TO HAVE TO FINISH THE JOB.

WE WILL NOT HAVE A SAFER AMERICA UNLESS WE GET THESE VIOLENT CRIMINALS OFF THE STREETS RIGHT NOW. WE HAVE SEVERAL HUNDRED THOUSAND -- I'D SAY BETWEEN 300,000 AND 700,000 REPEAT VIOLENT OFFENDERS -- INCORRIGIBLE, NOT REHABILITATABLE -- CYCLING THROUGH OUR SYSTEM WHO ARE OUT ON THE STREET AT ANY ONE TIME.

THIS IS GOING TO REQUIRE GREAT COMMITMENT IN ALL LEVELS OF GOVERNMENT. AND IT IS GOING TO REQUIRE THREE THINGS SPECIFICALLY:

FIRST, WE ARE GOING TO HAVE TO CONTINUE TO MAKE SUBSTANTIAL INVESTMENTS IN OUR LAW ENFORCEMENT.

SECOND, WE ARE GOING TO HAVE TO CONTINUE TO PRESS FOR URGENTLY-NEEDED LEGAL REFORMS AT BOTH THE FEDERAL AND THE STATE LEVEL.

THIRD, WE ARE GOING TO HAVE TO BE AS AGGRESSIVE AS WE CAN BE IN USING OUR RESOURCES TO TARGET AND INCAPACITATE THE MOST VIOLENT OFFENDERS.

LET ME TOUCH BRIEFLY ON THESE THREE REQUIREMENTS.

EVEN IN THESE VERY TIGHT FISCAL TIMES, WE HAVE BEEN VERY FORTUNATE AT THE FEDERAL LEVEL TO HAVE A GREAT COMMITMENT IN THE AREA OF RESOURCES. PRESIDENT BUSH HAS INCREASED THE SIZE OF THE DEPARTMENT OF JUSTICE, IN THE FIRST THREE YEARS OF HIS ADMINISTRATION, BY 60 PERCENT. THIS YEAR HE IS ASKING FOR AN ADDITIONAL TEN PERCENT -- FOR A TOTAL OF A 70 PERCENT INCREASE IN HIS FIRST TERM.

MOST IMPORTANT OF ALL IS THAT DURING THE FIRST 3 YEARS, HE HAS OBTAINED FUNDING TO INCREASE THE FEDERAL PRISON CAPACITY 118 PERCENT -- MORE THAN DOUBLING FEDERAL PRISON CAPACITY. IN THE WAR ON DRUGS, WE'VE GONE FROM \$4.5 BILLION IN THE BEGINNING OF THE ADMINISTRATION TO \$12.7 BILLION THIS YEAR.

I THINK THIS KIND OF COMMITMENT TO RESOURCES IS GOING TO HAVE TO BE MIRRORED AT THE STATE LEVEL. NOW IS NOT THE TIME TO SCRIMP ON RESOURCES FOR LAW ENFORCEMENT. AND NOW IS NOT THE TIME FOR CUTBACKS. THE PRESIDENT HAS SAID THAT POLICE BUDGETS, PROSECUTOR'S BUDGETS, AND CORRECTIONS BUDGETS ARE NOT JUST ANOTHER LINE ITEM IN THE BUDGET. THEY ARE THE VERY FIRST DUTY OF THE GOVERNMENT. THE FIRST DOLLAR SPENT IN EVERY BUDGET HAS TO GO TO THE PUBLIC SAFETY AND LAW ENFORCEMENT.

SECONDLY, WE'RE STILL IN SORE NEED OF LEGAL REFORM IN THIS COUNTRY. WE TOUGHENED UP THE FEDERAL SYSTEM CONSIDERABLY DURING

THE 80'S. RIGHT NOW, THE FEDERAL SYSTEM IS PROBABLY THE TOUGHEST IN THE NATION.

BUT MORE HAS TO BE DONE. THE PRESIDENT HAS PROPOSED A CRIME BILL TO CARRYOUT THIS UNFINISHED AGENDA AT THE FEDERAL LEVEL. HE'S SEEKING THE DEATH PENALTY. HE'S SEEKING STRICTER PENALTIES FOR FELONS WHO USE FIREARMS IN THEIR OFFENSES. HE'S SEEKING A BROADENING OF THE GOOD FAITH EXCEPTION TO THE EXCLUSIONARY RULE. AND HE'S SEEKING, MOST IMPORTANT OF ALL, AN END TO HABEAS CORPUS ABUSE.

THIS ABUSE OF THE FEDERAL WRIT OF HABEAS CORPUS IS UNDERMINING THE INTEGRITY OF THE STATE CRIMINAL JUSTICE SYSTEM. IT HAS BECOME AN AVENUE FOR THE ENDLESS REOPENING OF CASES AND THE RAISING OF FRIVOLOUS CLAIMS THAT HAVE NOTHING TO DO WITH GUILT OR INNOCENCE.

EVERY YEAR THE VICTIMS' FAMILIES HAVE TO WITNESS THE SPECTACLE OF THE REOPENING OF CASES. JUSTICE NEVER COMES TO AN END. BECAUSE OF THIS ABUSE, THERE IS NO FINALITY OF JUDGMENT. WE HAVE TO PUT A STOP TO IT. THAT IS WHEY THE PRESIDENT'S CRIME BILL IS SO IMPORTANT.

UNFORTUNATELY, THERE IS AN ALTERNATIVE CRIME BILL THAT IS A MAJOR STEP BACKWARD FOR LAW ENFORCEMENT. WHILE IT HOLDS OUT AN EMPTY PROMISE OF MORE MONEY -- MONEY THAT IS SIMPLY NOT THERE IN

THE FEDERAL BUDGET THIS YEAR -- IT ACTUALLY ROLLS THE CLOCK BACK TO THE WARREN COURT. TWENTY CASES THAT WERE DECIDED UNDER THE BURGER AND REHNQUIST COURTS WOULD BE OVERTURNED, AND THE CLOCK WOULD BE TURNED BACK TO THE RULE OF THE WARREN COURT.

THE PRESIDENT HAS PLEDGED TO VETO THAT BILL FROM THE PAST.

WE STILL NEED LEGAL REFORM ON THE STATE LEVEL. AND THAT IS EVEN MORE CRITICAL TODAY. THE 80'S WERE THE TIME WHERE WE REFORMED THE FEDERAL SYSTEM. THE 90'S HAVE TO BE A TIME WHERE WE REFORM THE STATE SYSTEMS -- WHEN WE ADOPT MANY OF THE TOUGHER APPROACHES THAT WERE ADOPTED IN THE 80'S AT THE FEDERAL LEVEL.

THAT IS WHY I APPLAUD GOVERNOR WELD FOR HIS TOUGH CRIME BILL THAT HE INTRODUCED LAST WEEK. HIS BOLD INITIATIVE ADOPTS MANY OF THE SUCCESSFUL ELEMENTS THAT WE HAD IN OUR FEDERAL REFORM EFFORT, INCLUDING MANDATORY MINIMUM SENTENCES. IT WOULD ELIMINATE PAROLE, PROVIDE ADDITIONAL INVESTIGATIVE TOOLS [TO PROSECUTORS], REINSTATE THE DEATH PENALTY, AND PROVIDE A STATE VERSION OF OUR FEDERAL RICO LAWS THAT CAN BE USED IN TARGETING GANGS. I STRONGLY SUPPORT THIS BILL. AND I WILL URGE THE STATE POLITICAL LEADERSHIP TO ACT FAVORABLY UPON IT.

THIRD, I MENTIONED THE NEED TO OPERATIONALLY FOCUS OUR RESOURCES WHERE THEY WILL DO THE MOST GOOD AGAINST THE HARDEST CORE ELEMENT. WE'VE BEEN TRYING TO DO THAT AT THE FEDERAL LEVEL.

IN PROGRAMS LIKE "OPERATION TRIGGERLOCK", WE USE FIREARM STATUTES TO GIVE HEAVY MANDATORY MINIMUM SENTENCES TO CHRONIC REPEAT FIREARM OFFENDERS. WE HAVE BEEN VERY SUCCESSFUL NATIONWIDE IN THAT PROGRAM. IN FACT, WE HAVE CHARGED OVER 4,700 DEFENDANTS SINCE APRIL. BY THE FIRST ANNIVERSARY OF THIS PROJECT, WE WILL HAVE OVER 6,000 CHARGED. THIS REPRESENTS 10 PERCENT OF THE FEDERAL PROSECUTION CASE LOAD, AND A DOUBLING OF OUR PRIOR PROSECUTION RATE ON FIREARMS CASES.

WE THINK IT'S HAVING AN EFFECTIVE. HERE'S ONE CASE, FOR EXAMPLE, IN THE BOSTON AREA: THE CASE OF DEFENDANT BENNEFIELD. THIS MAN FIRST CAME INTO CONTACT WITH THE CRIMINAL JUSTICE SYSTEM IN 1971 AND WAS CONVICTED OF POSSESSION AND SALE OF HEROIN. IN 1973 AND 1974, HE COMMITTED 12 SEPARATE BURGLARIES OF VARIOUS HOMES AND BUSINESS. OVER THE NEXT 10 YEARS, HE COMMITTED FOUR ARMED ROBBERIES. FINALLY, IN HIS FIFTH ARMED ROBBERY HE EXECUTED THE VICTIM. AND WHILE SERVING TIME FOR THAT CRIME, HE TRIED TO ESCAPE THREE TIMES. HE DID FINALLY GET OUT, BUT ROBBED A MAN AT GUNPOINT SHORTLY AFTERWARD. HE WAS DRIVING AWAY WHEN HE LEAD THE BOSTON POLICE ON A HIGH SPEED CHASE THROUGH DOWNTOWN. THAT INDIVIDUAL WAS ULTIMATELY CAUGHT AND PROSECUTED UNDER THE "TRIGGERLOCK" PROGRAM IN THE FEDERAL SYSTEM. HE NOW HAS A TWENTY YEAR MANDATORY MINIMUM SENTENCE WITH NO PAROLE.

BY DOING THAT NATIONWIDE, AS I SAY, WE'RE HAVING AN EFFECT.

ANOTHER AREA WHERE WE HELP OUR STATE AND LOCAL COLLEAGUES IS IN THE AREA OF GANGS -- WHERE WE CAN USE OUR FEDERAL FIREARM STATUTES, DRUG STATUTES AND OUR RICO STATUTES TO TAKE OUT ENTIRE ORGANIZATIONS.

AN EXAMPLE OF WHAT WE'RE TRYING TO ACCOMPLISH IS PHILADELPHIA. FOR TWO YEARS, WE HAD THE VIOLENT TRAFFICKERS PROJECT GOING ON IN PHILADELPHIA. IN THAT TWO YEAR PERIOD, WE ARRESTED AND SUCCESSFULLY PROSECUTED 600 GANG MEMBERS. THEY WERE ALL DETAINED PRE-TRIAL AND ARE ALL NOW SERVING LONG SENTENCES IN FEDERAL PENITENTIARIES.

BECAUSE OF THAT EFFORT, LAST YEAR THE NUMBER OF PERSONS ON PRE-TRIAL DETENTION IN PHILADELPHIA DOUBLED. PHILADELPHIA WAS THE ONLY MAJOR CITY TO EXPERIENCE AN APPRECIABLE DECREASE IN MURDERS LAST YEAR. ITS DRUG-RELATED HOMICIDES DROPPED BY 38 PERCENT; ITS OVERALL HOMICIDE RATE BY 11 PERCENT.

THAT COULD HAVE BEEN AN ANOMALY, BUT IN THE FIRST PART OF THIS YEAR THE MURDER RATE HAS DROPPED 18 PERCENT FROM THE PREVIOUS YEAR. THE CHIEF OF POLICE ATTRIBUTES THIS IN LARGE PART TO THIS FEDERAL-STATE ANTI-GANG EFFORT.

BUT THE FEDERAL ROLE IS ULTIMATELY LIMITED. NINETY-FIVE

PERCENT OF VIOLENT CRIME OCCURS AT THE STATE AND LOCAL LEVEL.
AND THAT IS WHERE THE WAR HAS TO BE FOUGHT AND WON.

ACROSS THE COUNTRY, THE POLICE AND THE PROSECUTORS ARE DOING
A SUPERB JOB. THEY ARE APPREHENDING THE PEOPLE WHO ARE
PERPETRATING THE CRIMES. THEY ARE CONVICTING. BUT THEN THE REST
OF THE SYSTEM IS LETTING DOWN SOCIETY. AND IT IS CERTAINLY
LETTING DOWN THE POLICE AND PROSECUTORS WHO ARE DOING THEIR JOB
AND BRINGING CRIMINALS TO JUSTICE.

THE MOST CRITICAL PROBLEM IS PRISON SPACE. THE ONE ITEM IN
OUR CRIMINAL JUSTICE SYSTEM THAT IS RESPONSIBLE FOR THIS
BREAKDOWN IS THE LACK OF AVAILABLE PRISON SPACE. FACED WITH THE
CURRENT SHORTAGE OF PRISON SPACE, RATHER THAN INVEST IN MORE
PRISONS, MANY STATES ARE OPTING FOR THE "TURN-EM-LOOSE-FASTER"
APPROACH. STATES ARE CYCLING THE CRIMINALS THROUGH THE SYSTEM
FASTER TO MAKE ROOM FOR THE NEXT WAVE. SO WE'VE SEEN -- ACROSS
THE NATION -- THE PERCENTAGE OF PRISON SENTENCE SERVED GOING
DOWN, JUST AS IT DID IN THE 60'S AND 70'S. IN THE 80'S IT WENT
UP. ONCE AGAIN, IT'S GOING BACK DOWN -- AS WE LET THESE PEOPLE
BACK ON THE STREET RATHER THAN BUILD MORE PRISONS.

THE EVIDENCE IS CLEAR THAT THIS POLICY IS A FAILURE. IT'S
BACKSLIDING TO THE REVOLVING DOOR JUSTICE SYSTEM -- AND IT'S
GOING TO HAVE ONE CONSEQUENCE: MORE CRIME.

IF ANYONE NEEDS MORE CONVINCING ON THAT, THEY HAVE TO LOOK NO FURTHER THAN THE STATE OF TEXAS. TEXAS DIDN'T BUILD ANY PRISONS IN THE 80'S -- THEY STARTED THE "TURN-EM-LOOSE-FASTER" APPROACH.

IN THE BEGINNING OF THE 80'S, 55 PERCENT OF THE SENTENCE WAS SERVED BY PRISONERS. AT THE END OF THE 80'S, 15 PERCENT OF THE SENTENCE WAS SERVED. TODAY, IN THE STATE OF TEXAS, 22 DAYS ARE SERVED FOR EACH YEAR OF SENTENCE.

PRISONERS WOULD RATHER GO TO PRISON AND SERVE A FEW MONTHS OF PRISON THAN BE PUT ON PROBATION AND BE HASSLED WITH THE SUPERVISION THEY GET ON PROBATION. THEY'D RATHER SERVE THE TIME AND GET AWAY. IN FACT, IN THE 80'S, THE NUMBER OF PAROLEES IN TEXAS INCREASED BY 21 TIMES.

SO WHAT HAPPENED? IN THE 80'S, WHILE THE REST OF THE NATION'S CRIME RATE FELL FOUR PERCENT, TEXAS' SKYROCKETED 29 PERCENT. JUST NOW THE STATE IS COMING TO ITS SENSES AND INVESTING IN MORE PRISON SPACE.

I THINK THE MESSAGE IS CLEAR: MORE PRISONS OR MORE CRIME. SOME PEOPLE SAY THAT WE JUST CAN'T SPEND THE MONEY. BUT I SAY WE JUST CANNOT AFFORD NOT TO SPEND THE MONEY.

WE SHOULD STOP LOOKING AT THE COST OF BUILDING AND OPERATING PRISONS. WE HAVE TO LOOK AT THE COST OF FAILING TO BUILD THE PRISONS. JUST THE ECONOMIC LOSS TO OUR SOCIETY FROM VIOLENT CRIME IS CLOSE TO \$20 BILLION DOLLARS A YEAR. JUST TREATING GUNSHOT WOUNDS FROM VIOLENT CRIME IN OUR HOSPITAL EMERGENCY ROOMS COST THIS COUNTRY \$5 BILLION A YEAR. WE SPEND LESS MONEY ON OUR CORRECTIONAL SYSTEMS THAN WE SPEND ON THE ECONOMIC LOSSES OF VIOLENT CRIME.

THE BUREAU OF JUSTICE STATISTICS ESTIMATES OTHER KINDS OF LOSSES -- SUCH AS THE COST TO THE CRIMINAL JUSTICE SYSTEM AND THE PAIN AND SUFFERING OF VICTIMS -- THESE COST SOCIETY AN ESTIMATED \$92 BILLION. BUILDING PRISONS IS NOT ONLY THE MORALLY RIGHT THING TO DO, IT IS THE ECONOMICALLY RIGHT THING TO DO.

WE'RE GOING TO HAVE TO SPEND MONEY ON PRISONS IF WE WANT TO HAVE ANY CHANCE OF REDUCING VIOLENT CRIME.

THAT BRINGS ME TO MY THIRD POINT. I'VE BEEN TALKING ABOUT THE NEED TO GET ROUGHER AND TOUGHER ON VIOLENT CRIME. YET SOME WOULD SAY THAT LAW ENFORCEMENT CANNOT DO THE JOB ALONE. I THINK THAT PEOPLE WHO SAY THAT ARE PARTLY RIGHT AND PARTLY WRONG.

I THINK THEY ARE PARTLY RIGHT BECAUSE, WHILE LAW ENFORCEMENT IS THE MOST EFFECTIVE WAY TO DEAL WITH THE MOST IMMEDIATE

MANIFESTATIONS OF VIOLENCE, IT IS NOT BY ITSELF, STANDING ALONE, THE ANSWER.

BUT THEY ARE ALSO PARTLY WRONG -- BECAUSE THEY ARE FREQUENTLY ADVOCATING SOCIAL PROGRAMS AS AN ALTERNATIVE TO TOUGH LAW ENFORCEMENT. THEY SAY WE SHOULDN'T BE SPENDING MONEY ON LAW ENFORCEMENT; WE SHOULD BE SPENDING IT ALL ON THE SO-CALLED "ROOT CAUSES" OF CRIME. HOW MANY TIMES HAVE I HEARD: "WE SHOULDN'T BE BUILDING MORE PRISONS -- WE SHOULD BE BUILDING MORE SCHOOLS," "WE DON'T NEED MORE POLICE --WE NEED MORE SOCIAL WORKERS.

I THINK THAT IS FLATLY WRONG. ONE OF OUR FAULTS IN SOCIETY IS OUR FAILURE TO REALIZE THAT WE CANNOT PURSUE SOCIAL PROGRAMS AT THE EXPENSE OF LAW ENFORCEMENT. ON THE CONTRARY, LAW ENFORCEMENT IS THE FOUNDATION. NONE OF THESE SOCIAL PROGRAMS WILL WORK UNLESS WE FIRST HAVE LAW AND ORDER IN THE STREETS -- OTHERWISE, CRIME IS GOING TO STRANGLE EVERYTHING WE DO.

LAW ENFORCEMENT HAS TO BE THE FOUNDATION. YES, SOCIAL PROGRAMS ARE NECESSARY -- BUT THEY SHOULD COMPLEMENT, NOT SUPPLANT, LAW ENFORCEMENT.

WHAT GOOD IS IT TO PUT A MODEL SCHOOL IN A NEIGHBORHOOD THAT IS OVERRUN BY CRIME -- WHERE THERE ARE SHOOTOUTS IN THE CLASSROOMS AND KIDS ARE SHOT ON THE WAY TO SCHOOL?

AT THE CABRINI GREEN HOUSING PROJECT IN CHICAGO, WE HAVE A HEADSTART PROGRAM AND MANY EDUCATIONAL PROGRAMS. BUT KIDS CAN'T LEARN IN CABRINI GREEN BECAUSE THERE ARE BULLETS FLYING AROUND -- STARTING THURSDAY NIGHT AND GOING THROUGH THE WEEKEND -- THE GANGS FIGHT IT OUT IN THE STREETS. THE PARENTS IN THAT HOUSING PROJECT HAVE THE KIDS SLEEP IN BATHTUBS THURSDAY THROUGH SUNDAY TO PROTECT THEM FROM THE STRAY BULLETS. WE'VE NOW COME TO THE AGE OF THE "ARMORED CRIB" IN OUR BIG CITIES. THAT IS NOT AN ENVIRONMENT IN WHICH SOCIAL PROGRAMS CAN SUCCEED.

IN THE LAST 25 YEARS, WE HAVE SPENT TRILLIONS OF DOLLARS ON SOCIAL PROGRAMS. AND WHAT HAVE WE BOUGHT WITH OUR TRILLIONS OF DOLLARS OF INVESTMENT? HAVE WE BOUGHT SAFER COMMUNITIES? HAVE WE BOUGHT LESS VIOLENT CRIME? I DON'T THINK SO.

FOR 25 YEARS IN WASHINGTON, SOCIAL SERVICE AGENCIES HAVE BEEN SPEWING OUT GRANT MONEY WITHOUT COORDINATING EVEN AMONGST THEMSELVES. HHS GIVING DRUG PREVENTION GRANTS TO THIS NEIGHBORHOOD . . . HUD GIVING HOUSING GRANTS TO THAT NEIGHBORHOOD . . . AND ON THE LAW ENFORCEMENT SIDE, WE'VE BEEN GIVING OUT LEAA MONEY AND OTHER LAW ENFORCEMENT GRANTS AS WELL. NONE OF IT COORDINATED WITH EACH OTHER.

THE CHALLENGE FOR THE 90'S IS TO LINK THESE UP. THE CHALLENGE FOR THE 90'S IS TO MAKE SURE THAT OUR SOCIAL PROGRAMS

AND OUR LAW ENFORCEMENT ASSETS ARE TARGETED AT THE SAME TIME, IN THE SAME PLACE, IN A MUTUALLY REINFORCING WAY.

WE HAVE TO MOVE FROM A BODY COUNT WAR -- WHERE WE MEASURE PUBLIC SAFETY FROM THE NUMBER OF PEOPLE CONVICTED -- TO A TERRITORIAL WAR, WHERE WE ACTUALLY HOLD ON TO NEIGHBORHOODS AND MAKE COMMUNITIES SAFER.

THAT IS THE PHILOSOPHY BEHIND THE PRESIDENT'S WEED AND SEED INITIATIVE.

WEED AND SEED IS DESIGNED TO ACTUALLY HELP RECLAIM NEIGHBORHOODS BY COORDINATING WHAT WE ARE DOING IN THOSE TARGETED AREAS AND BY WORKING WITH THE COMMUNITY.

FIRST, FEDERAL, STATE AND LOCAL LAW ENFORCEMENT TARGET A SPECIFIC NEIGHBORHOOD IN WHICH THE COMMUNITY HAS THE WILL TO TAKE BACK THE STREETS. WORKING WITH THAT COMMUNITY, LAW ENFORCEMENT MOVES TO TAKE OUT THE GANGS AND THE DRUG DEALERS AND THE CHRONIC VIOLENT OFFENDERS. THEN, THE COMMUNITY POLICE HOLD THAT TERRITORY.

FINALLY, COORDINATING FEDERAL, STATE AND LOCAL SOCIAL PROGRAMS ARE BROUGHT TO BEAR IN THAT COMMUNITY, ONCE A SAFE ENVIRONMENT HAS BEEN ESTABLISHED. TO TOP IT OFF, THE COMMUNITY

IS GIVEN ENTERPRISE ZONE STATUS -- WITH TAX INCENTIVES TO CREATE JOBS AND INVESTMENT IN THOSE NEIGHBORHOODS.

THIS IS A STRATEGY THAT I THINK HAS A CHANCE OF RECLAIMING NEIGHBORHOODS. IT IS A SMARTER WAY OF SPENDING OUR SOCIAL MONEY THAN WE HAVE IN THE PAST, AND IT REINFORCES LAW ENFORCEMENT. THE PRESIDENT IS REQUESTING A MASSIVE EXPANSION IN THE PROGRAM FOR HIS FY '93 BUDGET -- \$500 MILLION DOLLARS IN SOCIAL AND LAW ENFORCEMENT SPENDING.

WE HAVE THREE WEED AND SEED PROJECTS GOING ON NOW, AND WE ARE GOING TO HAVE AS MANY AS TEN OR MORE FUNDED IN THE NEXT THREE WEEKS. CHELSEA IS ONE OF THE NEIGHBORHOODS THAT HAS BEEN PROPOSED. I KNOW WAYNE HAS WORKED VERY CLOSELY WITH THE LAW ENFORCEMENT COMMUNITY HERE IN PREPARING THAT PROPOSAL.

SO IN SHORT, MY MESSAGE IS THREE-FOLD:

FIRST, THAT THE ONLY WAY TO REDUCE VIOLENT CRIME IN OUR SOCIETY IS TO TARGET CHRONIC VIOLENT OFFENDERS AND TO INCAPACITATE THEM THROUGH INCARCERATION. REVOLVING DOOR JUSTICE DOES NOT WORK. TO AVOID SLIPPING BACK INTO THE REVOLVING DOOR JUSTICE OF THE 60'S AND 70'S WILL TAKE A SUBSTANTIAL INVESTMENT IN LAW ENFORCEMENT IN THE 90'S.

SECOND, THE FEDERAL GOVERNMENT CAN HELP IN THE WAR ON VIOLENT CRIME, BUT THE LEAD ROLE IS THE STATES'. THE STATES MUST TOUGHEN UP THEIR LAWS AS WELL AS INVEST IN POLICE, PROSECUTORS AND PRISONS.

AND FINALLY, WHILE IT'S TRUE THAT LAW ENFORCEMENT CANNOT DO THE JOB ALONE, WE SHOULD ABANDON ANY NOTION THAT WE CAN ADDRESS THE CAUSES OF CRIME AT THE EXPENSE OF TOUGH LAW ENFORCEMENT. SOCIAL PROGRAMS SHOULD BE PURSUED -- BUT ONLY IN A WAY THAT SUPPORTS LAW ENFORCEMENT.

THANK YOU VERY MUCH FOR YOUR ATTENTION.

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REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE THE
MIDAMERICA COMMITTEE
CHICAGO, ILLINOIS

TODAY I WANT TO TALK TO YOU ABOUT THE PROBLEM OF VIOLENT CRIME IN OUR SOCIETY.

I DON'T HAVE TO TELL YOU THINGS ARE AT A GRAVE JUNCTURE. MANY OF OUR NEIGHBORHOODS ARE IN A STATE OF SIEGE.

INNOCENT, LAW ABIDING CITIZENS ARE BEING DEPRIVED OF THEIR FREEDOM. THEY ARE THE ONES WHO ARE FORCED TO LIVE BEHIND LOCKS AND BARS -- HELD PRISONERS IN THEIR OWN HOMES.

IT IS THE VIOLENT PREDATORS WHO SEEM TO BE AT LIBERTY -- FREE TO ROAM THE STREETS WITH IMPUNITY -- KILLING, TAKING WHAT THEY WISH, AND TERRORIZING AT WILL.

WHAT CAN WE DO ABOUT VIOLENT CRIME?

THERE IS A TENDENCY IN PUBLIC DISCOURSE THESE DAYS, TO DRAW A DICHOTOMY BETWEEN DIFFERENT APPROACHES TO DEALING WITH VIOLENT CRIME.

ON THE OTHER HAND, THERE IS THE LAW ENFORCEMENT APPROACH. THIS APPROACH TENDS TO SEE CRIME AS CAUSED BY CRIMINALS AND SEEKS TO DETER, INTERDICT, OR INCAPACITATE THOSE CRIMINALS.

PROponents OF THIS APPROACH CALL FOR MORE ENFORCEMENT ACTIVITY AND MORE SEVERE PUNISHMENTS.

ON THE OTHER HAND, THERE IS THE SOCIAL REHABILITATIVE RESPONSE TO VIOLENT CRIME. THIS SCHOOL TENDS TO SEE CRIME AS CAUSED BY SOCIETAL ILLS AND SEEKS TO DEAL WITH CRIME BY REMEDYING THESE ILLS THROUGH VARIOUS SOCIAL PROGRAMS.

PROponents OF THIS APPROACH SAY THAT LAW ENFORCEMENT CANNOT SOLVE THE PROBLEM OF VIOLENT CRIME ALONE SIMPLY BY SUPPRESSION. THEY SAY WE MUST USE SOCIAL PROGRAMS TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

TODAY, I WANT TO MAKE THREE POINTS WHICH RELATE TO THIS TENSION BETWEEN LAW ENFORCEMENT RESPONSE AND A SOCIAL PROGRAMS' RESPONSE TO VIOLENT CRIME.

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT, THESE DAYS, WE MUST GIVE PRIORITY TO A TOUGH LAW ENFORCEMENT APPROACH.

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL REHABILITATION SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE.

SO, LET ME TURN FIRST TO WHY I BELIEVE A TOUGH LAW ENFORCEMENT APPROACH MUST BE PARAMOUNT.

I RECOGNIZE THERE IS SOME TRUTH IN THE NOTION LAW ENFORCEMENT CANNOT DO THE JOB ALONE.

I'VE FREQUENTLY SAID THAT ONLY AN APPROACH COMBINING TOUGH LAW ENFORCEMENT WITH THE ECONOMIC AND MORAL REVITALIZATION OF HIGH-CRIME AREAS OFFERS THE PROSPECT OF A SAFER AMERICA.

BUT THOSE WHO ADVOCATE DEALING WITH CRIME BY ATTACKING "ROOT CAUSES" ARE FREQUENTLY FAR OFF THE MARK.

ALL TOO OFTEN, THESE SOCIAL PROGRAM ADVOCATES HAVE PRESENTED THEIR PROPOSALS AS AN ALTERNATIVE TO TOUGH LAW ENFORCEMENT. MANY, IN FACT, ARE CRITICS OF STEPPING UP LAW ENFORCEMENT MEASURES -- WHICH THEY DISMISS AS PUNITIVE.

THEY OFFER SOCIAL PROGRAMS AS A SUBSTITUTE STRATEGY FOR WHAT THEY VIEW AS LAW ENFORCEMENT'S UNENLIGHTENED POLICIES OF SUPPRESSION.

THEY FREQUENTLY HAVE AS THEIR OBJECTIVE SHIFTING RESOURCES FROM LAW ENFORCEMENT TO SOCIAL PROGRAMS -- "LET'S NOT BUILD MORE PRISONS' LET'S BUILD MORE SCHOOLS".

THIS THINKING IS FLATLY WRONG. WE MUST REJECT OUT-OF-HAND ANY NOTION THAT SOCIAL PROGRAMS ARE SOMEHOW A SUBSTITUTE FOR TOUGH LAW ENFORCEMENT POLICIES.

ON THE CONTRARY, IT IS INCREASINGLY CLEAR THAT TOUGH LAW ENFORCEMENT MEASURES ARE AN ABSOLUTE PREREQUISITE FOR SOCIAL PROGRAMS TO BE SUCCESSFUL.

INDEED, THE PROBLEM TODAY IS THAT EFFORTS AT REVITALIZING OUR URBAN COMMUNITIES ARE BEING STRANGLERED BY CRIME.

WHAT GOOD IS IT TO PUT A "MODEL SCHOOL" IN AN INNER CITY NEIGHBORHOOD IF THAT NEIGHBORHOOD IS A COMBAT ZONE WHERE STUDENTS ARE SHOT ON THEIR WAY TO SCHOOL? OR WHERE THERE ARE SHOOTOUTS IN THE CLASSROOMS?

WHAT GOOD IS IT TO OFFER JOB TRAINING PROGRAMS WHEN THE TRAINEES ARE AFRAID TO LEAVE THEIR HOMES?

IN THE CABRINI GREEN HOUSING PROJECT IN CHICAGO, A NUMBER OF EDUCATIONAL PROGRAMS ARE UNDERWAY. UNFORTUNATELY, THE CRIME PROBLEM THERE IS SO BAD THAT PARENTS ARE HAVING THEIR CHILDREN SLEEP IN BATHTUBS -- ESSENTIALLY ARMORED CRIBS -- TO PROTECT THEM FROM STRAY BULLETS IN GANG WARS.

IN SHORT, THE CRIME PROBLEM HAS REACHED THE POINT THAT ANY EFFORTS AT SOCIAL REHABILITATION WILL BE SMOTHERED -- OVERWHELMED -- WITHOUT AGGRESSIVE STEPS TO SUPPRESS VIOLENT CRIME.

IT WAS ONCE A SHIBBOLETH THAT "POVERTY CAUSES CRIME" -- ALWAYS A DEBATABLE PROPOSITION.

BUT -- TODAY -- WHAT IS BEYOND DEBATE IS THAT "CRIME CAUSES POVERTY".

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN NEIGHBORHOODS TAKING JOBS AND OPPORTUNITIES WITH THEM.

POTENTIAL INVESTORS AND WOULD-BE EMPLOYERS ARE SCARED AWAY.

POTENTIAL BUILDERS AND LANDLORDS ARE DISCOURAGED.

EXISTING OWNERS ARE DETERRED FROM MAKING IMPROVEMENTS.

AS PROPERTY VALUES DOWN, OWNERS DISINVEST.

I KNOW A SMALL CONTRACTOR WHO TRIED TO REHABILITATE INNER-CITY HOUSING FOR LOW INCOME TENANTS. HE HAD TO GIVE UP BECAUSE DRUG ADDICTS WOULD BREAK IN, RIP OUT IMPROVEMENTS AND SELL THEM FOR DRUG MONEY. THEY WOULD EVEN TEAR OUT ALL THE PIPING ON A REGULAR BASIS TO SELL IT FOR SCRAP.

YOU CANNOT HAVE PROGRESS AMID CHAOS.

NO SOCIETY HAS RENEWED ITSELF WITHOUT ORDER.

SOCIAL PROGRAMS ARE DOOMED TO FAILURE UNLESS WE GET CRIMINALS OFF THE STREETS.

AND THAT BRINGS ME TO MY SECOND POINT -- WHAT WE HAVE TO DO TO GET CRIMINALS OFF THE STREET.

MY PREDECESSOR USED TO SAY THAT, BEFORE WE CAN BECOME A KINDER AND GENTLER AMERICA, WE FIRST HAVE TO BE ROUGHER AND TOUGHER ON CRIME. HE WAS ABSOLUTELY RIGHT.

WE NEED TO GET A LOT TOUGHER IN DEALING WITH VIOLENT CRIME.

FROM A LAW ENFORCEMENT STANDPOINT, I DO NOT THINK THERE IS MUCH OF A MYSTERY AS TO HOW TO GO ABOUT DOING THIS.

WE KNOW WHAT NEEDS TO BE DONE. THE ONLY QUESTION IS WHETHER WE, AS A SOCIETY, HAVE THE WILL TO DO IT.

THE PROBLEM OF VIOLENT CRIME IS LARGELY THE PROBLEM OF THE REPEAT OFFENDER.

STUDY AFTER STUDY SHOWS THAT THERE IS A TINY FRACTION OF THE POPULATION WHO ARE INCORRIGIBLE, CHRONIC OFFENDERS AND WHO COMMIT MOST OF THE PREDATORY VIOLENCE IN OUR SOCIETY.

A 1980 STUDY OF JUST 240 HABITUAL OFFENDERS FOUND THAT IS SMALL GROUP WAS RESPONSIBLE FOR OVER 500,000 CRIMES OVER AN 11-YEAR PERIOD -- AN AVERAGE OF 190 CRIMES PER YEAR PER OFFENDER.

A 1982 RAND CORPORATION STUDY OF INMATES IN CALIFORNIA, MICHIGAN, AND TEXAS PRISONS FOUND THAT, A QUARTER OF THE PRISONERS WHILE OUT ON THE STREETS, HAD EACH BEEN COMMITTING OVER 135 CRIMES A YEAR, EXCLUDING DRUG DEALS.

IN OUR COUNTRY, WE HAVE WELL UNDER 1% OF THE POPULATION -- PROBABLY ONLY 1/2% OF THE POPULATION -- COMMITTING THE VAST MAJORITY OF PREDATORY VIOLENT CRIMES.

WE KNOW THE PROFILE OF THESE CAREER CRIMINALS.

THEY START COMMITTING CRIMES AS JUVENILES; AND GO RIGHT ON COMMITTING CRIMES AS ADULTS.

WHEN ARRESTED AND RELEASED BEFORE TRIAL, THEY GO RIGHT ON COMMITTING CRIMES.

WHEN GIVEN PROBATION INSTEAD OF A PRISON TERM, THEY GO RIGHT ON COMMITTING CRIMES.

WHEN RELEASED FROM PRISON ON PAROLE OR EARLY RELEASE, THEY GO RIGHT ON COMMITTING CRIMES.

THE ONLY TIME WE ARE SURE THESE CHRONIC OFFENDERS ARE NOT COMMITTING CRIMES IS WHEN THEY ARE LOCKED UP IN PRISON.

AND THAT, IN A WORD, IS THE ANSWER.

IN MY VIEW, THE ONLY WAY THAT WE WILL BE ABLE TO REDUCE VIOLENT CRIME IS TO:

- TARGET THESE CHRONIC OFFENDERS;
- TAKE THEM OFF THE STREETS;
- REMOVE THEM FROM SOCIETY AND INCAPACITATE THEM BY GIVING THEM LONG PRISON SENTENCES AND KEEPING THEM LOCKED UP IN PRISON UNTIL THEY HAVE SERVED THEIR ENTIRE SENTENCE.

WE CAN DEBATE AD NAUSEAM ABOUT THE "ROOT CAUSES" OF CRIME. WE CAN DEBATE WHETHER PRISONS CAN "REHABILITATE" CRIMINALS. AND, WE CAN DEBATE THE EXTENT TO WHICH PRISONS DETER OFFENDERS.

BUT ONE THING CANNOT BE DEBATED. IMPRISONMENT INCAPACITATES VIOLENT CRIMINALS.

FOR EVERY YEAR THAT A CHRONIC OFFENDER SITS IN HIS PRISON CELL, WE KNOW, WITH MORAL CERTAINTY THAT THERE ARE SCORES, PERHAPS HUNDREDS, OF FEWER VIOLENT CRIMES BEING COMMITTED -- AND SCORES, PERHAPS HUNDREDS, FEWER VICTIMS ON OUR STREETS.

IN MY VIEW, IF WE WANT TO ACHIEVE ANY REDUCTION IN VIOLENT CRIME IN OUR SOCIETY, IN OUR LIFETIME, AND OUR CHILDREN'S LIFETIME, THIS POLICY OF INCAPACITATING REPEAT OFFENDERS THROUGH INCARCERATION IS THE ONLY POLICY THAT HAS ANY PROSPECT OF SUCCESS.

INDEED, THE HISTORY OF THE LAST 30 YEARS SHOWS CLEARLY THAT A TOUGH INCARCERATION POLICY WORKS.

IN THE 1950'S WE HAD TOUGH INCARCERATION POLICIES, AND VIOLENT CRIME WAS HELD AT LOW LEVELS.

WE ABANDONED THESE TOUGH POLICIES IN THE 1960'S AND 1970'S.

THIS WAS THE ERA OF PERMISSIVENESS. CRIMINALS WERE VIEWED AS SOCIETY'S VICTIMS; NOT AS ITS VICTIMIZERS.

THE PREVAILING ATTITUDE WAS THAT THE ANSWER TO CRIME WAS NOT IMPRISONMENT, BUT MASSIVE SOCIAL SPENDING TO CURE THE PERCEIVED "ROOT CAUSES" OF CRIME.

AS A RESULT OF THIS PERMISSIVENESS -- DURING THE 1960'S AND EARLY 1970'S -- INCARCERATION RATES DROPPED SUBSTANTIALLY.

FEWER VIOLENT OFFENDERS WERE SENT TO PRISON. SENTENCES WERE SHORTER. THE OVERALL STATE PRISON POPULATION ACTUALLY DECLINED.

AND WHAT WAS THE RESULT? AS INCARCERATION RATES DROPPED, VIOLENT CRIME SKYROCKETED.

INDEED, THE RATE OF VIOLENT CRIME MORE THAN DOUBLED IN THE 1960'S. BY THE END OF THE 1970'S IT HAD ALMOST QUADRUPLED.

THIS UNBELIEVABLE SPIRAL PEAKED IN 1980.

THAT YEAR -- 1980 -- WAS A WATERSHED. THE REACTION AGAINST THE EXCESSES OF THE 1960'S AND 1970'S STARTED TO TAKE HOLD.

DURING THE 1980'S WE STARTED TO TOUGHEN UP OUR CRIMINAL JUSTICE SYSTEM -- AT THE FEDERAL LEVEL AND IN SOME STATES. WE HAD BAIL REFORM AND PAROLE REFORM. WE GOT SURER AND STRONGER SENTENCES.

PERHAPS MOST IMPORTANTLY THE FEDERAL GOVERNMENT AND MANY STATES MADE THE NECESSARY INVESTMENT TO BUILD NEW PRISON SPACE.

IN LINE WITH THESE TOUGHER POLICIES, THE INCARCERATION RATE MORE THAN DOUBLED DURING THE 1980'S. IN THAT DECADE, THE TOTAL PRISON POPULATION GREW FROM 305,000 IN 1980 TO 775,000 IN 1990.

AND WHAT WAS THE RESULT OF THESE TOUGHER POLICIES?

THE SPIRALING CRIME RATES OF THE 60'S AND 70'S WERE HALTED.

AFTER PEAKING IN 1980, THE CRIME RATE LEVELED OFF AND EVEN EDGED SLIGHTLY DOWNWARD FOR SEVERAL YEARS.

THE FBI'S UNIFORM CRIME REPORT SHOWS THIS LEVELING OFF DRAMATICALLY.

IN THE 60'S THE MURDER RATE CLAIMED 55%; IN THE 70'S IT ROSE 29%; IN THE 80'S IT ACTUALLY DROPPED BY 8%.

IN THE 60'S THE RATE OF AGGRAVATED ASSAULT AND ROBBERY INCREASED BY 187%; IN THE 1980'S IT INCREASED BY ONLY 2%.

THE NATIONAL CRIME VICTIMIZATION SURVEY OF THE BUREAU OF JUSTICE STATISTICS -- WHICH ESTIMATES BOTH REPORTED AND

UNREPORTED CRIMES - INDICATES THAT IN THE 1980'S RAPE DROPPED 29%, AGGRAVATED ASSAULT BY 11%, AND ROBBERY BY 17%.

THE NATIONAL EXPERIENCE HAS ALSO BEEN REFLECTED IN STATES THAT HAVE GOTTEN TOUGH. IN THE 1980'S, CALIFORNIA MORE THAN QUADRUPLED ITS PRISON POPULATION.

BY THE EARLY 1990'S, CALIFORNIA'S MURDER, RAPE, AND BURGLARY RATES HAD DROPPED BY 24% TO 37%.

WHAT ALL THIS SHOWS IS THAT THE TOUGH INCARCERATION POLICIES OF THE 1980'S WORKED.

WHILE THE VIOLENT CRIME RATE IS STILL UNACCEPTABLY HIGH, WE HAVE AT LEAST SEEN AN END TO THE DRAMATIC INCREASES THAT MARKED THE PREVIOUS TWO DECADES.

THIS IS A GREAT ACHIEVEMENT, AND WHAT MAKES IT REMARKABLE IS THAT IT WAS ACHIEVED AT THE HEIGHT OF THE CRACK COCAINE EPIDEMIC, WHICH HAS SPAWNED ITS OWN EPIDEMIC OF VIOLENCE.

AS BAD AS VIOLENT CRIME LEVELS ARE TODAY, IT IS HORRIFYING TO IMAGINE WHERE WE WOULD BE IF NOT FOR THE TOUGH INCARCERATION POLICIES OF THE 1980'S.

IN THE 1990'S WE CANNOT ALLOW A RETURN OF THE SPIRALING RATES OF THE 60'S AND 70'S.

NOR CAN WE BE CONTENT TO HOLD VIOLENT CRIME IN CHECK AT ITS ALREADY UNACCEPTABLY HIGH LEVELS.

WE MUST MAKE REAL PROGRESS TO REDUCE THE LEVEL OF VIOLENT CRIME.

THE CHOICE IS CLEAR. WE MUST PRESS AHEAD UNRELENTINGLY WITH THE POLICY OF INCAPACITATING CHRONIC OFFENDERS THROUGH LONG INCARCERATION.

IN THE 1980'S WE DID ABOUT HALF THE JOB.

IN THE 1990'S WE MUST FINISH THE JOB.

WE ARE STILL PERMITTING SEVERAL HUNDRED THOUSAND CHRONIC VIOLENT OFFENDERS TO WALK OUR STREETS.

WE WILL NOT HAVE A SAFER AMERICA, UNTIL WE GET THESE VIOLENT OFFENDERS OFF THE STREETS AND INTO PRISON FOR LONGER TERMS.

THIS WILL REQUIRE A GREAT COMMITMENT BY THE STATES.

MORE THAN 95% OF VIOLENT CRIME FALLS UNDER STATE AND LOCAL RESPONSIBILITY, AND SO THE BATTLE AGAINST VIOLENT CRIME WILL BE WON OR LOST AT THE STATE AND LOCAL LEVEL.

PURSuing A TOUGH INCARCERATION POLICY IN THE 1990'S WILL REQUIRE THREE THINGS:

FIRST, WE MUST CONTINUE THE SUBSTANTIAL INFUSION OF RESOURCES INTO LAW ENFORCEMENT, PARTICULARLY FOR BUILDING MORE PRISONS. WE SIMPLY CANNOT GET VIOLENT OFFENDERS OFF THE STREET WITHOUT MORE PRISON SPACE.

SECOND, WE MUST CONTINUE TO PRESS FOR CRITICALLY NEEDED REFORM OF OUR CRIMINAL JUSTICE SYSTEM -- REFORMS THAT MAKE PUNISHMENT MORE SWIFT, MORE CERTAIN, AND MORE SEVERE.

THIRD, WE MUST BE AS AGGRESSIVE AS POSSIBLE IN USING EXISTING LAWS TO TARGET, CONVICT AND INCARCERATE FOR A LONG TIME THE MOST HARDCORE VIOLENT OFFENDERS.

BUT THE FEDERAL ROLE IS NECESSARILY LIMITED.

IT IS STATE AND LOCAL ENFORCEMENT THAT IS ON THE FRONTLINE OF THE WAR AGAINST CRIME. OVER 95% OF VIOLENT CRIME IN THIS NATION IS INVESTIGATED, PROSECUTED AND PUNISHED AT THE STATE AND LOCAL LEVEL.

COMBATting VIOLENT CRIME IS, AND MUST REMAIN, PRINCIPALLY A STATE AND LOCAL RESPONSIBILITY.

ACROSS THE COUNTRY, THE POLICE AND THE PROSECUTORS ARE DOING A SUPERB JOB. THEY ARE CAPTURING AND CONVICTING SERIOUS CRIMINAL OFFENDERS. BUT, IN MANY JURISDICTIONS, THEY JUST DON'T HAVE THE ROOM IN THEIR JAILS AND PRISONS TO KEEP THEM OFF THE STREETS.

IN MY VIEW, AT THE STATE LEVEL, THE MOST CRITICAL OBSTACLE WE FACE TO REDUCING VIOLENT CRIME IS THE SHORTAGE OF AVAILABLE PRISON SPACE.

FACED WITH A SHORTAGE OF PRISON SPACE, SOME STATES, INSTEAD OF BUILDING MORE PRISONS, ARE ADOPTING WHAT HAS BEEN CALLED A "TURN-EM-LOOSE-FASTER" APPROACH.

THEY TRY TO CYCLE PRISONERS THROUGH THE SYSTEM FASTER TO MAKE ROOM FOR THE NEXT WAVE, USING PROBATION, PAROLE, SHORTER SENTENCES, AND EARLY RELEASE.

THESE STATES ARE BACKSLIDING. THEY ARE GOING BACK TO THE "REVOLVING DOOR JUSTICE" OF THE 1960'S AND 1970'S.

THE RESULTS ARE PREDICTABLE. RELEASING VIOLENT OFFENDERS BACK ON THE STREETS SIMPLY MEANS MORE CRIME.

TEXAS SHOULD STAND AS AN EXAMPLE TO ANY STATE TEMPTED TO OPT FOR THE REVOLVING DOOR, INSTEAD OF BUILDING PRISONS.

IN THE 1980'S TO SAVE MONEY, TEXAS DIDN'T BUILD PRISONS. IT ADOPTED THE "TURN-EM-LOOSE-FASTER" APPROACH.

THE AVERAGE TERM SERVED DROPPED FROM 55% OF SENTENCE IN 1980 TO LESS THAN 15% BY THE END OF THE DECADE, AND THE NUMBER OF PAROLEES INCREASED BY 21 TIMES.

AS A RESULT, DURING THE 1980'S WHILE THE CRIME RATE DROPPED NATIONALLY, TEXAS' CRIME RATE JUMPED BY 29%, MAKING TEXAS THE SECOND-HIGHEST STATE IN CRIME.

THE CHOICE IS CLEAR: MORE PRISON SPACE, OR MORE CRIME!

SOME MIGHT ARGUE THAT WE CANNOT AFFORD TO BUILD MORE PRISONS; I SAY WE CANNOT AFFORD NOT TO BUILD MORE PRISONS.

WHILE SOME FOCUS ON THE COST OF BUILDING AND MAINTAINING PRISON SPACE; IT IS TIME WE FOCUSED MORE ON THE COSTS OF FAILING TO PROVIDE PRISON SPACE.

THE BJS ESTIMATES THAT THE TOTAL DIRECT COSTS OF CRIME SUCH AS ECONOMIC LOSS TO VICTIMS IS \$18.75 BILLION ANNUALLY. WHEN

INDIRECT COSTS SUCH AS JUSTICE SYSTEM COSTS AND VICTIM PAIN AND SUFFERING ARE INCLUDED, THE TOTAL RISES TO \$92 BILLION A YEAR. AND NEITHER OF THESE ESTIMATES ACCOUNT FOR MACRO-LOSSES TO SOCIETY SUCH AS LOST SALES, LOST JOBS AND LOST REVENUES.

THE ATF STUDY OF ARMED CAREER CRIMINALS ESTIMATED THAT THEIR CRIMES COST SOCIETY \$386,000 EACH FOR EVERY YEAR THEY WERE ON THE STREETS, WHEREAS IT COSTS ONLY \$20,000 A YEAR TO INCARCERATE THEM.

NOW THERE ARE THOSE LOOKING FOR AN EASY WAY OUT, INSTEAD OF BUILDING PRISONS.

WE HERE A LOT OF TALK THESE DAYS ABOUT ALTERNATIVES TO PRISONS -- ELECTRONIC MONITORING, COMMUNITY HALF-WAY HOUSES, INTENSIVE PAROLE, BOOT CAMPS.

LET ME BE CLEAR. THESE ARE NOT AN ALTERNATIVE TO BUILDING MORE PRISONS. THESE ALTERNATIVE SANCTIONS MAY BE WORTHWHILE FOR NON-VIOLENT OFFENDERS OR FIRST-TIME OFFENDERS. (AND LET ME ADD THAT, IF DONE RIGHT THEY WILL NOT BE MUCH CHEAPER, IF AT ALL.)

BUT THESE ALTERNATIVE SANCTIONS ARE NOT APPROPRIATE FOR SERIOUS OR REPEAT VIOLENT OFFENDERS.

AND WE STILL -- IN MOST STATES -- LACK SUFFICIENT PRISON SPACE TO DEAL WITH THESE VIOLENT OFFENDERS.

SPENDING MONEY ON PRISONS IS NOT ONLY THE MORALLY RIGHT THING TO DO; IT IS THE ECONOMICALLY RIGHT THING TO DO.

WHILE SPENDING MONEY ON PRISONS INVOLVES A SACRIFICE IN THESE FISCALLY TIGHT TIMES, STATES MUST MAKE THIS INVESTMENT IF WE ARE TO HAVE ANY HOPE OF REDUCING VIOLENT CRIME AND THUS PROVIDING AN ENVIRONMENT WITHIN WHICH -- AND A FOUNDATION UPON WHICH -- OUR SOCIAL PROGRAMS CAN WORK.

AND THAT BRING ME TO MY THIRD POINT.

AS I SAID AT THE OUTSET, LAW ENFORCEMENT CANNOT SOLVE THE PROBLEM OF VIOLENT CRIME ALONE. WE NEED SOCIAL REVITALIZATION IN CRIME RIDDEN COMMUNITIES. BUT WHAT TYPE OF SOCIAL PROGRAMS ARE WE TALKING ABOUT? HOW DO WE GO ABOUT THIS WORK OF REBUILDING OUR COMMUNITIES?

SOME ARGUE THAT IT'S SIMPLY A MATTER OF PUTTING MORE MONEY IN OUR SOCIAL PROGRAMS. I DISAGREE.

I DON'T THINK THAT THE PROBLEM HAS BEEN THE AMOUNT OF OUR SOCIAL SPENDING. WE AS A SOCIETY HAVE BEEN WILLING TO INVEST SUBSTANTIAL SUMS IN SOCIAL PROGRAMS. INDEED, OVER THE PAST 25

YEARS WE HAVE PLOWED TRILLIONS OF DOLLARS INTO OUR CITIES
PRECISELY IN AN EFFORT TO ATTACK THE ROOT CAUSES OF CRIME.

AND WHAT HAVE WE GOTTEN FOR THIS INVESTMENT? WHAT HAVE WE
PURCHASED WITH THESE TRILLIONS OF DOLLARS? HAVE WE PURCHASED
SAFER COMMUNITIES? HAVE WE PURCHASED A BETTER QUALITY OF LIFE IN
THESE COMMUNITIES? NO.

POVERTY APPEARS TO BE AS STUBBORN AS EVER. ILLEGITIMACY AND
THE NUMBER OF SINGLE PARENT FAMILIES AMONG THE POOR HAVE SOARED.
MARRIAGE, SCHOOL ATTENDANCE AND EMPLOYMENT HAVE DROPPED. CRIME
HAS INCREASED. THESE ARE THE RETURNS ON OUR SOCIAL SPENDING
INVESTMENT.

THE PROBLEM HAS BEEN NOT HOW MUCH WE ARE SPENDING; THE
PROBLEM HAS BEEN HOW WE ARE SPENDING IT. IN OTHER WORDS, THE
PROBLEM IS NOT THE SCALE OF OUR PROGRAMS. IT IS THE STRUCTURE OF
OUR PROGRAMS. SIMPLY PUT, WE MUST GET SMARTER ABOUT HOW WE SPEND
OUR SOCIAL SERVICE DOLLARS.

IN THIS REGARD, THERE HAVE BEEN FUNDAMENTAL FLAWS WITH THE
WAY WE HAVE STRUCTURED OUR SOCIAL PROGRAMS.

FIRST, A KEY SHORTCOMING IN THE PAST HAS BEEN PRECISELY THE
FAILURE TO COORDINATE AND INTEGRATE OUR SOCIAL PROGRAMS WITH LAW
ENFORCEMENT.

WE HAVE HAD FOR THE PAST 25 YEARS MANY SOCIAL AGENCIES, INCLUDING THE DEPARTMENTS OF LABOR, HUD, HHS, EDUCATION, EACH WITH THEIR OWN GREAT PROGRAMS, SPEWING THEIR MONEY OUT INTO THE COUNTRY WITHOUT ANY REGARD FOR WHAT IS HAPPENING ON THE LAW ENFORCEMENT SIDE.

AND ON THE LAW ENFORCEMENT SIDE, WE HAVE HAD LEAA AND OTHER GRANT MAKING INSTITUTIONS PUTTING POLICE CRUISERS, COMMUNICATIONS GEAR AND OTHER LAW ENFORCEMENT ASSETS INTO COMMUNITIES WITHOUT ANY REGARD TO WHETHER THERE WERE ANY PROGRAMS OUT THERE TO SUPPORT THEM.

EDUCATION MAKES A HIGH-RISK YOUTH GRANT TO A NEIGHBORHOOD IN OUR CITY. HHS MAKES A DRUG PREVENTION GRANT -- THAT WOULD HAVE BEEN A GREAT COMPLEMENT TO THE YOUTH CENTER -- BUT MAKES IT TO A DIFFERENT NEIGHBORHOOD IN A DIFFERENT CITY. NEITHER NEIGHBORHOOD HAS AN EFFECTIVE LAW ENFORCEMENT PROGRAM UNDERWAY. AND MEANWHILE, A THIRD NEIGHBORHOOD IN A THIRD CITY STARTS UP AN EFFECTIVE COMMUNITY-BASED PROGRAM TO SUPPRESS CRIME BUT CAN'T GET SOCIAL SERVICES TO BACK IT UP. THE RESULT -- FAILURE IN ALL THREE NEIGHBORHOODS.

THE CHALLENGE OF THE 90'S IS TO LINK THESE EFFORTS UP -- TO DEPLOY AND FOCUS BOTH OUR LAW ENFORCEMENT ASSETS AND OUR SOCIAL

RESOURCES AT THE SAME TIME, IN THE SAME PLACE, IN A MUTUALLY REINFORCING WAY.

AND TO ACCOMPLISH THIS, THE PRESIDENT HAS LAUNCHED THE "WEED AND SEED" PROGRAM. THE PROGRAM IS CURRENTLY UNDERWAY IN SEVERAL PILOT CITIES, AND NEXT MONTH IT WILL BE EXPANDED TO SIX TO TEN ADDITIONAL CITIES.

THE PRESIDENT IS SEEKING A SUBSTANTIAL EXPANSION OF THE WEED AND SEED PROGRAM IN HIS BUDGET FOR NEXT YEAR -- HE IS REQUESTING \$500 MILLION FOR THE PROGRAM.

WEED AND SEED IS NOT SO MUCH A NEW SPENDING PROGRAM AS A METHOD OF OPERATING. IT IS A COMPREHENSIVE, MULTI-AGENCY APPROACH TO COMBATTING VIOLENT CRIME IN SOME OF THE HARDEST HIT NEIGHBORHOODS IN AMERICA'S CITIES.

WEED AND SEED INVOLVES THE TARGETING OF SPECIFIC BESIEGED NEIGHBORHOODS AND THE FOCUSING OF RESOURCES TO ASSIST THE RESIDENTS TO TAKE BACK THEIR STREETS AND REBUILD THEIR COMMUNITIES.

HERE'S HOW IT WORKS. AS THE FIRST STEP, THE FEDERAL, STATE AND LOCAL LAW ENFORCEMENT INTEGRATE AND FOCUS THEIR EFFORTS WITHIN A PARTICULAR NEIGHBORHOOD AND, WORKING WITH THE COMMUNITY,

"WEED OUT" THE VIOLENT OFFENDERS, THE GANGS, AND THE DRUG TRAFFICKERS.

AND THEN AS THE STREETS ARE RECLAIMED FROM THE CRIMINALS, INTENSIVE COMMUNITY POLICING IS PUT INTO PLACE SO THAT THE GROUND ONCE TAKEN IS HELD.

AND FINALLY, THE BROAD PANOPLY OF FEDERAL, STATE, AND LOCAL GOVERNMENT AND PRIVATE SECTOR COMMUNITY REVITALIZATION PROGRAMS ARE BROUGHT TO BEAR AND FOCUSED ON THAT COMMUNITY TO "SEED IN" THE LONG TERM STABILITY AND GROWTH.

DRUG PREVENTION PROGRAMS, HEAD START, JOB TRAINING, HEALTH CARE PROGRAMS, COMMUNITY DEVELOPMENT GRANTS, ALL ARE APPLIED TOGETHER AND IN A COHERENT WAY, IN ONE PLACE, THAT IS SUPPORTED BY LAW ENFORCEMENT.

THE WEED AND SEED PROGRAM THUS PROVIDES, I BELIEVE, A STRATEGY FOR RECLAIMING OUR NEIGHBORHOODS. IT IS A STRATEGY THAT COMBINES TOUGH LAW ENFORCEMENT WITH PHYSICAL, ECONOMIC AND MORAL REVITALIZATION.

A SECOND PROBLEM WITH OUR SOCIAL PROGRAMS IN THE PAST HAS BEEN THAT THEY HAVE OVERLOOKED THE NEEDS AND NATURE OF THE COMMUNITIES THEY ARE INTENDED TO SERVE. MOST OF THESE SOCIAL

PROGRAMS HAVE BEEN SOCIAL ENGINEERING SCHEMES IMPOSED BY WASHINGTON BUREAUCRATS FROM THE TOP DOWN.

THESE CENTRALIZED SOCIAL PROGRAMS -- PARACHUTING IN RESOURCES FROM ABOVE -- CANNOT PRODUCE THE NECESSARY ECONOMIC AND SOCIAL REVIVAL THAT MUST TAKE ROOT FROM THE GROUND UP.

MOREOVER, MANY OF THESE PROGRAMS EFFECTIVELY PROVIDED REWARDS FOR ECONOMICALLY AND MORALLY COUNTER-PRODUCTIVE BEHAVIOR, RATHER THAN RESPONSIBLE BEHAVIOR THAT LEADS TO PROSPERITY.

THESE PROGRAMS TENDED TO REWARD NON-WORK, NON-MARRIAGE, AND ILLEGITIMACY. AND SO WE HAVE GOTTEN LESS WORK; FEWER MARRIAGES; AND MORE ILLEGITIMACY.

IT WE ARE GOING TO HOLD THE GROUND LAW ENFORCEMENT WINS BACK, WE MUST TURN THESE PERVERSE INCENTIVES AROUND.

WE MUST PURSUE SOCIAL PROGRAMS THAT FIRST CREATE A GENERAL ENVIRONMENT OF OPPORTUNITY FOR BOTTOM-UP, GRASSROOTS ECONOMIC GROWTH.

SUCH PROGRAMS MUST PROVIDE INCENTIVES FOR JOB-CREATING INVESTMENT AND ENTREPRENEURSHIP, AND BETTER ESSENTIAL SERVICES FOR INNER-CITY AREAS, AS WELL AS FOR WORK, EDUCATION, AND OTHER

ECONOMICALLY PRODUCTIVE BEHAVIOR BY THE CITIZENS OF DISADVANTAGED COMMUNITIES.

AGAIN, THE WEED AND SEED PROGRAM SEEKS TO AVOID PAST SHORTCOMINGS. THE PRESIDENT'S FY 1993 "WEED AND SEED" PROPOSAL TO CONGRESS CALLS FOR THE CREATION OF FEDERAL ENTERPRISE ZONES TO BE USED AS AN INTEGRAL PART OF THE PROGRAM.

GIVING TARGETED NEIGHBORHOODS ENTERPRISE ZONE STATUS WILL STIMULATE THE REEMERGENCE OF COMMUNITY ECONOMIC LIFE THROUGH INVESTMENT AND LOCAL ENTREPRENEURIAL ACTIVITY.

OUR GOAL IS NOT TO PERPETUATE DEPENDENCY, BUT TO FOSTER BOTTOM UP ECONOMIC GROWTH -- TO PRIME THE PUMP AND CREATE AN ENVIRONMENT IN WHICH THE COMMUNITY'S OWN RESOURCEFULNESS CAN TAKE OFF.

A THIRD FUNDAMENTAL DEFECT WITH MANY OF OUR SOCIAL PROGRAMS IN THE PAST HAS BEEN THAT TOO MANY OF THEM SEND THE WRONG MORAL MESSAGE.

WE HAVE CONTRIBUTED TO A GENERAL MORAL BREAKDOWN BY PROVIDING BENEFITS FOR DOING SOMETHING BAD, RATHER THAN DOING SOMETHING GOOD.

FOR EXAMPLE, THEY CREATE POWERFUL INCENTIVES FOR THE BREAKUP OF THE FAMILY.

AND THE INCENTIVES HAVE WORKED.

THE ILLEGITIMACY RATE AMONG BLACK CHILDREN HAS SKYROCKETED SINCE THE MID-1960'S AND IS TODAY RUNNING AT 65.7%.

THIS IS THE LEGACY OF THE GREAT SOCIETY.

IN MY VIEW, THE BEST HOPE FOR GENUINE COMMUNITY RENEWAL LIES IN FOSTERING THE REBIRTH OF THOSE TRADITIONAL INSTITUTIONS WHICH EMERGE FROM THE COMMUNITIES THEMSELVES -- AND ARE THE BEST INSTITUTIONS FOR THE MORAL FORMATION OF CHILDREN -- THE FAMILY, THE CHURCH, AND COMMUNITY GROUPS.

MANY OF THE SO-CALLED EXPERTS WHO ARE PEDDLING SOCIAL SOLUTIONS TO OUR PROBLEMS TODAY ARE THE VERY SAME PEOPLE WHO CONTRIBUTED TO THOSE PROBLEMS IN THE FIRST PLACE.

IN THE 60'S AND 70'S, THERE WERE PLENTY OF SOCIAL EXPERTS AROUND SAYING THAT WE SHOULD THROW OFF THE OUT-MODED RESTRAINTS OF THE PAST THAT HAD BEEN INCULCATED BY PARENTS AND CHURCHES SINCE THIS COUNTRY BEGAN. THE PROPHETS OF THE SEXUAL REVOLUTION AND THE DRUG CULTURE PROCLAIMED THE DAWN OF A NEW ERA OF MATURITY AND FREEDOM, OF PEACE AND LOVE. THAT'S NOT WHAT HAPPENED -- NOT

BY A LONG SHOT. TODAY WE CAN SEE THE GRIM HARVEST OF THE AGE OF AQUARIUS: BROKEN FAMILIES, VENEREAL DISEASES, TEENAGE PREGNANCY, CRACK BABIES. WE SEE MISERY AND SQUALOR, CONFUSION AND LONELINESS.

AND THESE SO-CALLED EXPERTS ARE NOW PROMOTING HALF-BAKED SOLUTIONS THAT SEND THE WRONG MESSAGE -- LIKE NEEDLES TO ADDICTS AND CONDOMS TO KIDS.

OUR SOCIAL PROGRAMS MUST SEND THE RIGHT MESSAGE. LAW ENFORCEMENT SENDS A CLEAR MESSAGE ABOUT RIGHT AND WRONG, ABOUT PERSONAL RESPONSIBILITY, AND ABOUT WHAT A JUST SOCIETY EXPECTS OF ITS CITIZENS. OUR SOCIAL PROGRAMS MUST REINFORCE THAT MESSAGE. THEY CANNOT SEND THE MESSAGE THAT SOMEBODY ELSE WILL CLEAN UP IF WE MAKE A MESS.

IN THE FINAL ANALYSIS, NOTHING CAN SUBSTITUTE FOR THE CLEAR MORAL VISION, THE DISCIPLINE, AND THE RESPECT FOR AUTHORITY THAT STRONG FAMILIES, RELIGION AND COMMUNITY VALUES PROVIDE. BY SHORING UP THE FOUNDATION OF CIVILIZED SOCIETY, THE FAMILY AND THE LOCAL COMMUNITY, OUR SOCIAL PROGRAMS CAN HELP FIGHT BOTH POVERTY AND CRIME.

ONCE AGAIN, THE WEED AND SEED PROGRAM RECOGNIZES THE NEED FOR MORAL REHABILITATION.

THE PROGRAM SEEKS TO APPLY MEASURES THAT TEACH ACCOUNTABILITY AND PERSONAL RESPONSIBILITY.

MOREOVER, WEED AND SEED DOES NOT DENIGRATE TRADITIONAL INSTITUTIONS. INSTEAD, IT TRIES TO SHORE UP THE FAMILY AND WORK, AS PARTNERS, WITH CHURCH AND COMMUNITY GROUPS. THE PROGRAM'S GOAL IS TO CREATE A CLIMATE IN WHICH THESE NATURAL INSTITUTIONS CAN DO THE JOB THEY HAVE DONE SO WELL FOR CENTURIES.

WITH THE PROPER ROLES OF THESE TRADITIONAL INSTITUTIONS RESTORED, AND DESTRUCTIVE INCENTIVES AND REWARDS REPLACED BY CONSTRUCTIVE ONES, WE CAN EXPECT THE FAMILY, THE CHURCH AND THE FULL PANOPLY OF COMMUNITY GROUPS TO RETURN IN FULL FLOWER TO OUR LOW INCOME COMMUNITIES, TO PERFORM THEIR ESSENTIAL SUPPORTIVE, COHESIVE AND MORAL FUNCTIONS.

IN SUM, MY MESSAGE TODAY IS THREEFOLD:

1. THE ONLY WAY TO REDUCE VIOLENT CRIME IN OUR SOCIETY IS TO INCAPACITATE CHRONIC VIOLENT OFFENDERS THROUGH A TOUGH POLICY OF INCARCERATION.

WE CANNOT PERMIT OURSELVES TO BACKSLIDE INTO A SYSTEM OF REVOLVING DOOR JUSTICE.

2. WHILE THE FEDERAL GOVERNMENT CAN HELP IN THE WAR ON VIOLENT CRIME IN LIMITED WAYS, ULTIMATELY THE ANSWER IS FOR STATES TO TOUGHEN THEIR CRIMINAL JUSTICE SYSTEMS.

3. AND FINALLY, WHILE IT IS TRUE THAT LAW ENFORCEMENT CANNOT DO THE JOB ALONE, SOCIAL PROGRAMS CANNOT BE PURSUED AT THE EXPENSE OF TOUGH LAW ENFORCEMENT.

WE MUST BE SMARTER ABOUT HOW WE PURSUE SOCIAL PROGRAMS.

WE MUST INTEGRATE THEM WITH LAW ENFORCEMENT ACTIVITY AND ENSURE THEY DON'T FOSTER DEPENDENCY BUT STIMULATE THE COMMUNITY'S OWN RESOURCEFULNESS.

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REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE

ECONOMIC CLUB OF DETROIT LUNCHEON
DETROIT, MICHIGAN

MARCH 23, 1992

Thank you, Judge, for your kind introduction. Jerry [Warren], I have a special connection with the city of Detroit -- your bank, NVP, holds my mortgage. So, when I got your invitation I considered it a command performance. (laughter)

It's a great privilege to have the opportunity to speak to this premiere forum, one which is so involved with the critical issues of today. Today I want to speak to you about one of those critical issues, one that I know is a concern here in Detroit. That is the issue of violent crime.

I don't have to tell you that in the area of violent crime we're at a critical juncture. Many of our neighborhoods are in a state of siege. Innocent, law-abiding citizens are being deprived of their freedom -- they are the ones that are being forced to live behind locks and bars, held prisoner in their own homes.

It is the violent predators who seem to be at liberty, free to roam the streets with impunity -- killing, taking what they wish, and terrorizing at will. What can we do about this?

My predecessor, Dick Thornburgh, used to say that before we can become kinder and gentler in America, we have to get rougher and tougher on violent crime. He was absolutely right.

I want to talk to you about how, from a law enforcement standpoint, we need to get a lot rougher and tougher on violent crime. And then I want to talk about the relationship between tough law enforcement policies and the idea that we should use social programs to attack the so-called "root causes" of crime. Finally, I'm going to suggest that if we want a kinder and gentler

America we're going to have to be a lot smarter about how we pursue these social programs.

So let me turn first to how we need to get rougher and tougher on violent crime. From a law enforcement standpoint, there isn't much of a mystery about how to go about reducing violent crime. We know what needs to be done. The issue is whether or not we have the will to do it.

The problem of violent crime today is largely the problem of the habitual, repeat violent offender. Study after study show that there is a tiny fraction of the population who are incorrigible, chronic offenders who commit most of the predatory violence in our society.

A 1980 study of just 240 habitual offenders found that this small group was responsible for over 500,000 crimes in an 11 year period -- an average of 190 crimes per year for each offender.

A 1982 Rand Corp. study of inmates in selected state prison systems found that the average state inmate committed, while out on the streets, between 187 and 287 crimes per year.

And a recent ATF study of violent firearms offenders serving in federal penitentiaries found that these individuals, while out on the street, averaged 160 crimes per year. The available data shows that in our country we have well under one percent of the population -- probably only half a percent of the population -- that is responsible for the vast majority of the predatory violence in our streets.

And we know the profile of these career criminals. They start

committing crimes as juveniles and they go right on committing crimes as adults. When arrested and released before trial, they go right on committing crimes. When given probation instead of a sentence, they go right on committing crimes. When released from prison on parole or on early release, they go right on committing crimes. In fact, the only time that we are sure these chronic offenders are not committing crimes is when they are locked up in their prison cell. And that in a word is the answer.

In my view, the only way we will be able to reduce violent crime is to target these chronic offenders ... take them off the streets ... remove them from society ... incapacitate them by giving them long prison sentences ... and keep them locked up in prison until they have served their entire sentence. 7

We can debate ad nauseam what the root causes of crime are. We can debate whether prisons can rehabilitate offenders. And we can debate the extent to which prisons can deter offenders. But one thing cannot be debated -- and that is imprisonment incapacitates violent criminals. 7 B

For every year that a chronic offender sits in his prison cell, we know with moral certainty that there are scores, perhaps hundreds, of fewer crimes being committed on the streets -- and therefore scores, perhaps hundreds, of fewer victims. L In my view, 7 if we want to achieve any reduction in violent crime in our society in our lifetime or the lifetime of our children, this policy of incapacitating repeat offenders through incarceration is the only policy that has any prospect of success. C J

And indeed, the history of the last 30 years shows clearly that tough incarceration policies work.

In the 1950s, we had tough incarceration policies -- and violent crime was held at low levels. But we abandoned these tough policies in the 1960s and 1970s. This was the era of permissiveness. Criminals were viewed as society's victims not as its victimizers. The prevailing attitude was that the answer to crime was not imprisonment, but massive social spending to address the perceived "root causes" of crime.

As result of this permissiveness during the '60s and early '70s, the incarceration rates in this country dropped substantially. Fewer violent offenders were sent to prison. Prison sentences were shorter, and indeed, the overall state prison population dropped. And what was the result of this?

As incarceration rates dropped, violent crime skyrocketed. The rate of violent crime more than doubled in the '60s. By the early '70's it almost quadrupled. This unbelievable spiral in the rate of violent crime peaked in 1980. That year was the watershed.

The reaction against the excesses of the '60s and '70s started to take hold. During the '80s, we started to toughen up our criminal justice system -- particularly at the federal level, but also in many states -- through bail reform, parole reform, and stronger and stronger sentences. During the '80s, the federal government and many states embarked on a substantial expansion of prison capacity as well. Because of these tougher policies, the incarceration rate more than doubled during the 1980s -- a complete

reversal of the pattern during the '60s and '70s.

In the decade of the '80s the total prison population of our country grew from 305,000 to 775,000. What was the result of these tougher policies in the 1980s? The spiraling crime rates of the '60s and '70s were halted. After peaking in 1980, the crime rate leveled off -- and even bent slightly downward for several years.

The FBI's Uniform Crime Report shows this levelling off dramatically. Let me give you some examples. In the '60s, the murder rate climbed by 55 percent. In the '70s, it rose by 29 percent. In the '80s, it actually dropped by 8 percent. In the '60s, the rate of aggravated assault and battery increased by 187 percent. In the 1980s, it increased by 2 percent. The National Crime Victimization Survey of our own Bureau of Justice Statistics shows this as well. That report estimates both reported and unreported crimes; it indicates that in the '80s, rape dropped by 29 percent, aggravated assault by 11 percent, and robbery dropped by 17 percent.

The national experience has been reflected in the states that toughened their policies in the '80s. California, for example, more than quadrupled its prison capacity. And by the early '90s California's murder rate and burglary rates dropped by 24 to 37 percent.

All of this shows that the tough incarceration policies of the '80s worked. While the violent crime rate is still unacceptably high, we have at least seen an end to the dramatic increases that marked the previous two decades.

This is a great achievement. And what makes it remarkable is that it was achieved at the height of the crack cocaine epidemic, which has spawned its own epidemic of violence. As bad as violent crime levels are today, it is horrifying to imagine where we would be if not for the policies that we pursued in the '80s. Can anyone seriously argue that if we had 500,000 more violent offenders on the street today, we would be a safer society?

In the '90s, we cannot allow a return to the spiraling rates of the '60s and '70s. Nor can we be content to hold violent crime in check at its unacceptably high levels of today. We must make real progress in actually reducing the levels of violent crimes in our society.

The choice is clear. We have to press ahead unrelentingly with the policies of incarceration that we followed in the 1980s. We have to put chronic offenders away for a long time.

In the '80s, we did about half the job. In the '90s, we have to finish the job.

We are still permitting several hundred thousand chronic violent offenders to walk our streets. We will not have a safer America until we get these offenders off the streets -- and into our prisons.

This is going to require a great commitment by the states. More than 95 percent of violent crime falls within state and local responsibility -- and so the battle against violent crime will be won or lost at the state and local level.

Pursuing these tough incarceration levels in the 1990s will

require three things. First, we must continue the substantial infusion of resources into law enforcement, particularly for prison construction. We simply cannot get offenders off the street without more prison space.

Second, we must continue to press for critically needed legal reforms to our criminal justice system -- reforms that make punishment more certain, more swift, and more severe for chronic offenders.

And third, we must be as aggressive as possible in using existing laws to target, convict and incarcerate the most hard-core violent offenders.

In all these areas, the federal government is playing a leadership role. First, in the area of resources for law enforcement. Even in these tight times, President Bush has given law enforcement the highest priority:

- o In the first three years of this Administration, he has increased the budget for the Department of Justice by 60 percent.
- o In the first three years of his Administration, he has funded a 118 percent increase in federal prison capacity -- more than doubling federal prison capacity.
- o In the drug war, he has increased funding from 4.5 billion in 1988 -- to his request this year for 12.7 billion.

States must follow suit. Now is not the time for cutting back on investment in law enforcement. If anything, more investment in law enforcement is necessary.

Now I know that the states, like the federal government, face serious fiscal restraints. But it is time we went back to basics. Protecting the public's safety, providing physical security of the citizenry, is the very first duty of government. It is the reason we established government. The police function and the law enforcement function should receive the highest priority in funding.

In the area of reform of the criminal justice system, again the federal government is playing the leading role. During the 1980s, many reforms were accomplished in the federal system. We had bail reform -- which allowed for pre-trial detention of dangerous defendants. Parole was abolished. Sentencing reform guaranteed surer and stiffer penalties. Tougher mandatory minimums were adopted for serious offenders. The federal system is today the toughest system in the Nation -- and yet there is an unfinished agenda.

More has to be done. President Bush has proposed a tough crime bill that finishes the job started in the 1980s. It provides the federal death penalty. It provides stricter penalties for firearm offenses. It provides reform of the exclusionary rule. And most importantly, it reforms the abuse of the Writ of Habeas Corpus -- and thus restores integrity to the state criminal justice system.

Abuse of that writ, the Writ of Habeas Corpus, will mean an end to the repetitive and duplicative reopening of convictions,

which have deprived state criminal justice systems of any finality. States must follow suit in the area of criminal justice reform.

If the '80s were a time of reform in the federal criminal justice system, the '90s should be a time of reform in the state criminal justice system.

This means adopting the laws that insure more severe punishment for repeat offenders. It means providing pre-trial detention for dangerous offenders. It means giving convicted repeat offenders mandatory sentences -- without early release and without parole.

And the third area -- operationally -- the Federal government has been trying to focus its resources to assist state and local government in targeting the most hard-core offenders. In the area of firearms, for example, we can use our tough Federal firearms statutes to target hard-core repeat offenders. These are felons who use firearms in their crimes. We are seeking to impose strong mandatory minimum sentences on these individuals, thus incapacitating them in the federal system.

We're doing that under Project Triggerlock, which has been in operation since last April. Under Project Triggerlock, working with our state and local colleagues, we identify the chronic offenders who otherwise might be prosecuted in the state system and get light sentences. Instead, we prosecute them in the Federal system under the firearm laws -- and put them away for a long time. By this April, the first anniversary of Project Triggerlock, we will have prosecuted over 6,000 individuals. That's 10 percent of

the federal criminal caseload, and it represents a doubling of federal firearm prosecutions.

Another area of violent crime in which we think we can be helpful to our state and local colleagues is in the area of gangs. We are not only talking about national gangs like the Crips and the Bloods -- we are also talking about regional and local gangs. We can use our firearms statutes, our drug statutes, our RICO statutes, and our organized crime statutes to take out entire organizations.

In some of our pilot projects we have had success. In Philadelphia, for the past two years we have had a project called the Violent Traffickers Project. Under that project, working with state and local officials, we have successfully prosecuted and incarcerated over 600 hundred gang members in two years. These people were all held in pre-trial detention and they all have been sentenced under determinate sentencing. They left the streets the day they were arrested -- and haven't returned.

It's no coincidence that after 2 years of this effort, Philadelphia is the only city in the United States to experience a depreciable decrease in its homicide rate. Drug related homicides have dropped by almost 40 percent in Philadelphia. A substantial decrease in the homicide rate relative to all the other cities in the country. The Chief of Police believes that this program -- targeting violent offenders and putting them away in federal prison -- has played a major role in bringing that about.

But the federal role is necessarily a very limited role. As

I said, it is the state and local role of enforcement which is on the front line of combatting violent crime. And this must remain the case. The most critical obstacle in the country that we face in reducing violent crime is the shortage of prison space.

Across the country, the police and the prosecutors are doing their jobs. They are capturing and convicting serious criminal offenders -- but in many jurisdictions, they just don't have the room in their jails or prisons to keep them off the street. Faced with a shortage of prison space, some states -- instead of building more prisons -- are adopting what is termed as the "turn-em-loose-faster" approach. They try to cycle prisoners through the system to make room for the next wave. To do this, they use probation, parole, early release, and good time credit to move people out of prison faster. These states are backsliding. They are returning to the revolving door system of the '60s and '70s.

The results are predictable. Releasing violent offenders back on the streets results in only one thing: more crime. The best example of this is a state that should stand as an example for the rest of the country -- the state of Texas.

Texas didn't build any prisons in the 1980s. They tried to save money, so they adopted the "turn-em-loose-faster" approach. In 1980, the average prisoner served 55 percent of his sentence. By the end of decade, that had fallen to 15 percent. Today, it is 22 days for every year of their sentence.

So when you see a sentence given out in Texas, and you think that Texas sounds tough by giving out these 50 or 60 or 70 year

sentences, it is in fact a very weak sentence. In Texas, prisoners would rather be put in prison than given probation -- because if they are given probation, then they have to live out on the street with some form of supervision, as light as it may be. But if they go to prison, they can wipe the slate clean in a matter of months. During the decade of the '80s, the number of parolees in Texas increased by 21 times. And what was the result of all this?

It was predictable, as I said. During the '80s, while the rest of the country's crime rate dropped, Texas' had skyrocketed by almost 30 percent. Now, at this late date, Texas has embarked on massive prison construction project.

So I think the choice is clear: More prison space or more crime. Some might argue that we just can't afford to build more prisons. I say we cannot afford not to build more prisons. We should stop looking solely at the cost of building and operating prisons. We have to look at the cost of failing to build those prisons.

The economic costs of crime are projected by the Bureau of Justice Statistics at \$18.75 billion annually, which is about as much as the whole nation -- state and federal -- pays for the correctional system today. But when you count the indirect costs to the criminal justice system -- pain and suffering and other indirect costs -- the total cost of crime rises to \$92 billion a year. That estimate does not account for the macro losses to society -- lost revenue, lost jobs, lost sales.

The ATF study that I referred to earlier estimated that the

average offender in that study costs society an estimated \$368,000 dollars for every year on the streets. It costs \$20,000 to incarcerate that individual. I think that's a price well worth paying.

So spending money on prisons is not only the morally right thing to do, it is the economically right thing to do. And while spending money on prison involves a sacrifice in these fiscally tight times, it is one I think we're going to have to make if we are going reduce violent crime.

I've been talking about the need to get rougher and tougher with our law enforcement policies, and now I want to spend a moment and turn to the kinder and gentler side. I want to talk about the relationship between law enforcement on the one hand, and social programs meant to address crime on the other.

There is a tendency in our public discourse to draw a dichotomy between two different approaches to dealing with violent crime. On one hand, there is the law enforcement response. This approach tends to see crime as caused by criminals, and seeks to deter, interdict, or incapacitate those criminal. The proponents of this approach call for more enforcement activity and more severe punishment, as I've just done.

On the other hand, there is the social rehabilitation approach to violent crime. This school seems to see crime caused by societal ills, and seeks to deal with crime by remedying those ills through various social programs. Proponents of this approach say that law enforcement can't solve the problem of violent crime alone

simply by suppression. They say we must address the "root causes" of violent crime. I think advocates of this social rehabilitation approach are partly right and partly wrong.

I think they are partly right in that, while strong law enforcement is the only effective way to deal with the immediate manifestation of violence in our society, it is not, standing alone, the complete answer. Law enforcement sweeps, without sustaining commitment to neighborhood development, result in little permanent improvement in the community's security or its quality of life. I have frequently said that only an approach combining tough law enforcement with the economic and moral revitalization of high-crime areas offers the prospect of a safer America.

But the advocates of social programs to crime are also partly wrong. Historically, proponents of the policy of attacking the "root causes" of crime through social programs frequently present their proposals as an alternative strategy to law enforcement. They frequently argue that law enforcement responses are unenlightened or unproductive -- and their subtle, and sometimes not-so-subtle, message has been that aggressive law enforcement and social, economic and other programs are somehow competing and contradicting strategies. They frequently have sought to shift resources from law enforcement to social programs. I hear it constantly: "We don't need more prisons -- we need more schools," "We don't need more police -- we need more social workers."

I think we have to reject this dichotomy as a false one. It's not an either/or situation. In my view, law enforcement programs

must be complemented by social programs. Both law enforcement and social programs are essential -- and they must work together, mutually reinforcing one another. Social revitalization and social programs cannot be pushed through -- instead of, or at the expense of -- aggressive law enforcement policies.

Nor could law enforcement be relegated to second place. On the contrary, a strong law enforcement effort is an absolutely necessary prerequisite for any social progress. Law enforcement is the foundation upon which all other programs build -- indeed, social rehabilitation cannot even get started without law and order in the community.

You can't have progress amidst social chaos. I don't know of any society that has ever emerged and renewed itself without order.

It makes no sense to put a model school in a community when it is overrun by violent crime, with students shot on the way to school ... or robbed on the way to school ... or terrorized in that model school. And it doesn't make sense to set up job training programs if the trainees are afraid to come out of their homes ... afraid to stand at the bus stop because of drive-by shootings.

Recently, one of my aides visited the Cabrini Green housing project in Chicago. It is a project that has a lot of social programs underway -- including a Head Start program. But the number one concern of parents in that housing project were the bullets that start flying around every Thursday night and go all the way through the weekend -- because of the gang warfare in the streets. It is so bad that during the weekends, they have their

children sleep in the bathtubs -- to stop the stray bullets that fly through the housing projects. We have come to the age in many of our communities where we have "armored cribs."

That is not the kind of environment in which social programs have any type of success. Any effort at attacking the root causes will be smothered unless we have law enforcement on the streets. And once we've recognized that the success of efforts in social rehabilitation are dependent on law enforcement, the question remains: What kind of social programs are we talking about? How do we go about revitalizing our communities?

Some argue that it is merely a matter of putting more money into social programs. I disagree. I don't think the problem has been the amount of our social spending. In this society, we have been willing to invest substantial sums -- in the past 25 years, we have plowed trillions and trillions of dollars into our cities, in an effort to attack the "root causes" of violent crime.

What have we gotten for this investment? What have we purchased with these trillions of dollars? Safer communities? Better qualities of life for these communities? No. Poverty appears to be as stubborn as ever. Illegitimacy and the number of single-parent families have soared. Marriage, school attendance and employment have dropped. Crime has increased. This is the return on our social spending investment.

The problem has been not how much we are spending. The problem is how we are spending it. In other words, it's not the scale of our programs -- it is the structure of our programs.

One of the critical structural shortcomings of the past has been precisely the failure to coordinate our social programs and integrate them with law enforcement. We have, for the past 25 years, many social agencies -- whether it be the Department of Labor, HUD, HHS, Education -- each with their own planned programs, spewing money out into the country without any regard for what is happening on the law enforcement side. And on the law enforcement side, we had LEAA and other grant making institutions putting police cruisers and communications gear and other law enforcement assets in the community -- without any regard to what other social support is out there.

The challenge of the '90s is to deploy and focus both our law enforcement assets and our social resources -- at the same time, at the same place, and the same mutually reinforcing way.

To accomplish this, the President has launched the Weed and Seed program. The program is underway in several pilot cities, and next month it will be expanded to six or eight additional cities.

As the first step, federal, state and local law enforcement integrate and focus their efforts within a particular neighborhood. Working with the community, they "weed out" the violent offenders, drug traffickers, and gangs. Then, as the streets are reclaimed from the criminals, intensive community policing is put into place so that the ground, once taken, is held. Finally, a broad panoply of federal, state, local, and private community revitalization programs are brought to bear and focused on that community, "seeding" long term stability and growth. Drug prevention

programs, Head Start, job training, health care programs, community development grants -- all are applied together in a coherent way, in one place, supported by law enforcement.

The Weed and Seed program thus provides, I believe, the strategy for taking back the streets from criminals and reclaiming our neighborhoods. It is a strategy that combines tough law enforcement with physical, moral and economic revitalization.

In sum, then, my message today is really threefold:

First, the only way to reduce violent crime in our society is to incapacitate chronic violent offenders through a tough policy of incarceration. We cannot permit ourselves to backslide into the system of revolving door justice prevalent in the '60s and early '70s.

Second, while the federal government can help in the war on violent crime in limited ways, ultimately the answer is for the states to toughen their own criminal justice systems. What the federal government did in the '80s, the states must carry through in the '90s.

And finally, while it is true that law enforcement cannot do the job alone, social programs cannot be pursued at the expense of or in lieu of tough law enforcement policies. We must be smarter about the way we pursue social programs. We must integrate them with law enforcement activity and ensure that they don't foster dependency -- but stimulate the community's own resourcefulness.

Thank you very much.

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Response to crime is clear, says Barr: Build prisons

March 20, 1992 | By David Simon ****TC** | David Simon ****TC**, Staff Writer

Addressing Maryland's first-ever summit on violent street crime, U.S. Attorney General William P. Barr yesterday gave the state's political and law enforcement leadership his most basic advice: "Build more prison space . . . the choice is more prison space or more crime."

The gathering responded with polite applause. Mr. Barr had not explained where money for such prisons might be found.

Saying that only incarceration can guarantee that career offenders will not commit violent crimes, Mr. Barr cited the federal government's own prison construction efforts -- in which more than 30 new facilities are in construction or planning -- and challenged Maryland officials to adopt a similar program.

"We have to go back to basics," said Mr. Barr, the keynote speaker at yesterday's summit, staged at the Convention Center by state Public Safety Director Bishop L. Robinson. "The first responsibility of government is public safety, and the first dollar spent should be on public safety."

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It was a message that fell hard on state political leaders and law enforcement officials, who spent much of the day talking about making do with existing resources in a time of dwindling financial resources.

Sitting in the audience during Mr. Barr's address, Richard A. Lanham, who runs the state's overcrowded and underfunded prison system, shook his head softly and began writing notes to himself on a sheet of paper: "If no new taxes, where will money come from?"

The cost of building the next proposed prison in Cumberland is now estimated at almost \$200 million, with another \$40 to \$50 million required annually to run the facility. "While we build prisons," wrote Mr. Lanham, "how do we begin to fix the society which future inmates come from?"

The question is little less than the guns-or-butter conflict at the center of Maryland's effort to reduce bloated crime rates in Baltimore, Prince George's County and elsewhere throughout the state -- an effort that led Secretary Robinson and Gov. William Donald Schaefer to convene 700 politicians, law enforcement officials and community leaders for a day of speeches, pronouncements and discussion.

And while yesterday's summit featured a host of new proposals aimed at improving the "front end" of the war on crime -- notably the response of the federal, state and local police agencies to the problem of violent crime -- little hope was offered to the prison and parole systems that are now barely coping with their ever-growing inmate population.

Mr. Robinson told the summit that the state would continue to look at alternative sentencing, such as home detention programs and other community-based correctional efforts, in an effort to staunch the flow of bodies into Maryland's prisons. At the same time, Governor Schaefer told the gathering that political support for the state's prisons was essential.

"You can't just send him 400 more people and say, 'It's your problem now, Bishop Robinson,' " said the governor, gesturing toward his public safety secretary. "It's my problem, it's your problem. It's everyone's problem."

Not all Marylanders, however, apparently feel that way. While Mr. Barr is assured of a Congress willing to bankroll massive U.S. prison construction with deficit spending, Maryland officials acknowledge that they have little that resembles a consensus.

A University of Maryland survey unveiled at yesterday's summit included one particularly telling result: Respondents were asked whether citizens would be willing to pay an additional \$100 in taxes to build more prisons.

Fifty-seven percent said no.

With neither a consensus nor money to repair the "back end" of Maryland's criminal justice system, Governor Schaefer and others instead contented themselves yesterday by announcing a strategy to combat street violence that relies heavily on new police programs and task forces.

Specifically, law enforcement officials pledged renewed cooperation between federal agencies and Maryland's police departments. Agents from the FBI and the Bureau of Alcohol, Tobacco and Firearms have already been pledged for task forces targeting violent repeat offenders in Baltimore and the Washington suburbs.

Likewise, state police yesterday confirmed that they were undertaking a new strike force aimed at drug traffickers from New York who are flooding Maryland drug markets not only with narcotics but with teen-aged youths from the Bronx or Brooklyn, who are recruited to sell the drugs.

In addition, the U.S. Attorney's Office for Maryland pledged to continue efforts with local prosecutors in which violent offenders are often charged under federal firearms statutes and are subjected to more severe penalties than they are in state courts.

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REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE

UNITED STATES ATTORNEYS' NATIONAL CONFERENCE

CONTEMPORARY RESORT, ORLANDO, FLORIDA
MARCH 1, 1992

GOOD MORNING TO ALL OF YOU.

I WOULD LIKE TO GIVE A PARTICULAR THANKS TO BOB GENZMAN FOR HOSTING THIS CONFERENCE AT SUCH A BEAUTIFUL LOCALE, AND TO ALL THOSE IN HIS OFFICE AND IN THE EXECUTIVE OFFICE FOR WORKING SO HARD TO MAKE THIS A SUCCESSFUL CONFERENCE.

THIS IS OBVIOUSLY A SPECIAL OCCASION FOR ME. ALTHOUGH I HAVE MET WITH MANY OF YOU PERSONALLY OVER THE LAST FEW MONTHS, THIS IS THE FIRST TIME THAT, AS ATTORNEY GENERAL, I HAVE MET WITH ALL THE U.S. ATTORNEYS COLLECTIVELY.

THE FIRST THING I WOULD LIKE TO DO IS TO EXPRESS MY PROFOUND GRATITUDE TO ALL OF YOU -- NOT ONLY FOR THE SUPERB JOB YOU HAVE BEEN DOING FOR THE COUNTRY -- BUT, FRANKLY, FOR THE SUPPORT YOU HAVE GIVEN ME DURING

- MY TENURE AS DEPUTY,
- AS ACTING ATTORNEY GENERAL,
- THROUGH THE CONFIRMATION PROCESS,
- AND NOW, FOR THE PAST THREE MONTHS, AS ATTORNEY GENERAL.

I WILL NEVER FORGET YOUR SUPPORT.

I VIEW THE U.S. ATTORNEYS AS THE DEPARTMENT'S FIELD COMMANDERS -- THE GENERALS IN COMMAND OF THE FRONT LINE TROOPS.

WE AT HEADQUARTERS CAN HELP SET STRATEGY AND PROVIDE YOU SUPPORT, BUT ULTIMATELY THE DEPARTMENT'S SUCCESS OR FAILURE WILL DEPEND ON YOUR RESOURCEFULNESS, TENACITY, AND SKILL.

AND I THINK THE NATION IS FORTUNATE TO HAVE SUCH AN EXCEPTIONAL GROUP OF INDIVIDUALS CURRENTLY SERVING AS U.S. ATTORNEYS.

I HAVE WORKED WITH MOST OF YOU AND KNOW, FIRST HAND, OF YOUR PROFESSIONALISM AND DEDICATION. I AM PROUD TO BE ASSOCIATED WITH YOU.

TWO WEEKS AGO I HAD LUNCH WITH THE PRESIDENT AND HE COMMENTED ON WHAT A GREAT TEAM WE HAVE AT THE DEPARTMENT OF JUSTICE. WELL, HE WAS RIGHT. WE DO HAVE A GREAT TEAM AT DOJ.

AND I WOULD LIKE THE WATCHWORD DURING MY TENURE AS ATTORNEY GENERAL TO BE PRECISELY THAT -- "TEAMWORK".

IF WE ARE TO MEET THE LAW ENFORCEMENT CHALLENGES THAT LIE AHEAD, IT IS ESSENTIAL THAT ALL PARTS OF THE DEPARTMENT -- ALL OFFICES, AGENCIES, AND COMPONENTS -- WORK CLOSELY TOGETHER AS A TEAM.

I THINK WE HAVE TODAY A VERY HIGH DEGREE OF COHESION IN THE DEPARTMENT, AND I WOULD LIKE TO FOSTER AND BUILD UPON THAT.

TO ME, THE CRITICAL ELEMENT IN BUILDING A SENSE OF TEAMWORK WITHIN THE DEPARTMENT IS MAINTAINING A CLOSE WORKING RELATIONSHIP AND UNDERSTANDING BETWEEN THE U.S. ATTORNEYS AND HEADQUARTERS.

I THINK IT IS IMPORTANT TO HAVE WELL REPRESENTED AT HEADQUARTERS INDIVIDUALS WHO UNDERSTAND THE PERSPECTIVE OF U.S. ATTORNEYS OFFICES.

SO I AM HAPPY TO REPORT TO YOU ON PERSONNEL DEVELOPMENTS AT HEADQUARTERS THAT MARK A FURTHER STRENGTHENING OF THAT SENSE OF TEAMWORK WE ARE SEEKING.

1. AS I AM SURE YOU KNOW, PRESIDENT BUSH HAS NOMINATED GEORGE TERWILLIGER TO BE DEPUTY ATTORNEY GENERAL. GEORGE WILL HANDLE, PRIMARILY, THE CRIMINAL SIDE. HE WILL BE ASSISTED BY JEFF HOWARD, THE U.S. ATTORNEY FROM NEW HAMPSHIRE, AND MIKE CAREY, THE U.S. ATTORNEY FROM THE SOUTHERN DISTRICT OF WEST VIRGINIA, AS HIS PRINCIPAL ASSOCIATES.

2. PRESIDENT BUSH HAS ALSO ANNOUNCED HIS INTENTION TO NOMINATE WAYNE BUDD AS ASSOCIATE ATTORNEY GENERAL. WAYNE WILL HANDLE, PRIMARILY, THE CIVIL SIDE.

3. IN ADDITION, IRA RAPHAELSON CONTINUES AS SPECIAL COUNSEL FOR FINANCIAL INSTITUTION FRAUD. I HAVE ALSO APPOINTED HIM COUNSELLOR TO THE ATTORNEY GENERAL; IN THAT CAPACITY HE WILL BE ADVISING ME ON A BROAD RANGE OF MATTERS.

4. TO ENCOURAGE EVEN CLOSER COMMUNICATION WITH THE ATTORNEY GENERAL'S ADVISORY COMMITTEE, BILL ROBERTS HAS AN OFFICE ON THE FIFTH FLOOR. HE WILL BE SPENDING SUBSTANTIAL TIME IN D.C.; ATTENDS MY STAFF MEETINGS; AND REGULARLY MEETS WITH GEORGE TERWILLIGER AND ME.

5. EOUSA IS STILL DOING A TERRIFIC JOB UNDER LARRY MCWHORTHER'S LEADERSHIP. AND, LARRY HAS BOLSTERED THAT OPERATION WITH LOU DEFALAISE AS COUNSEL.

SO, YOU CAN SEE, U.S. ATTORNEYS ARE WELL REPRESENTED IN POLICY-MAKING POSITIONS OF THE DEPARTMENT OF JUSTICE. THIS UNDERSCORES THE FACT WE ARE ALL ONE DEPARTMENT OF JUSTICE.

ANOTHER CHANGE OF SIGNIFICANCE TO U.S. ATTORNEYS IS THE CREATION OF A NEW OFFICE OF POLICY AND COMMUNICATIONS.

- THIS OFFICE GROUPS THREE EXISTING OFFICES:
THE OFFICE OF LIAISON SERVICES, WHICH REMAINS
UNDER BILL LUCAS;

THE OFFICE OF PUBLIC AFFAIRS, WHICH DOUG TILLET
WILL STILL BE SUPERVISING; AND
THE OFFICE OF POLICY DEVELOPMENT, WHICH STEVE
SCHLESINGER WILL CONTINUE TO HEAD.

THE OFFICE OF POLICY AND COMMUNICATIONS WILL BE HEADED BY PAUL
MCNULTY.

AUSA RIDER SCOTT, A PRINCIPAL ASSISTANT OF RON WOODS, HAS
BEEN BROUGHT ON TO BE ONE OF PAUL'S DEPUTY'S -- HE WILL WORK ON
OUTREACH MATTERS ALONG WITH BILL LUCAS.

ANOTHER DEPUTY, MARY KATE GRANT, HAS COME OVER FROM THE
WHITE HOUSE, TO WORK ON PRESS MATTERS.

AND ANOTHER PERSON, KRISTEN GEER, HAS ALSO COME OVER FROM
THE WHITE HOUSE, AND WILL BE WORKING WITH BILL ROBERTS AND MARY
KATE GRANT ON U.S. ATTORNEYS MATTERS.

THESE CHANGES WILL MEAN BETTER COMMUNICATION BETWEEN
HEADQUARTERS AND THE FIELD.

THE REST OF OUR TEAM REMAINS THE SAME -- A GROUP OF STEADY
VETERANS. WE HAVE SOME VACANCIES IN ENVIRONMENT AND TAX WHICH I
EXPECT TO BE FILLED RELATIVELY SOON.

NOW THAT I HAVE TALKED ABOUT OUR TEAM, LET ME TURN TO OUR PRIORITIES.

COVER ALL THE BASES

AS I HAVE SAID BEFORE, IT IS A LITTLE MISLEADING TO TALK ABOUT PRIORITIES AT THE DEPARTMENT OF JUSTICE. WE HAVE RESPONSIBILITY FOR ENFORCING LAW ACROSS THE BOARD: ANTITRUST, CIVIL RIGHTS, ENVIRONMENT, IMMIGRATION. SO, IN A SENSE, OUR FIRST PRIORITY MUST BE TO COVER ALL THE BASES. IN AN ERA OF SCARCE RESOURCES, THIS IS BECOMING A GREATER CHALLENGE. WE ARE A THIN LINE, THAT IS BECOMING EVEN THINNER. THIS MEANS ALL OF US MUST ENSURE THAT RESOURCES ARE NOT BEING WASTED, AND THAT ALL AVAILABLE RESOURCES ARE BROUGHT TO BEAR FOR MAXIMUM EFFECT.

IN ORDER TO ENSURE THAT OUR SCARCE RESOURCES ARE USED AS EFFECTIVELY AS POSSIBLE, I AM ASKING EACH OF YOU TO REVISIT YOUR DISTRICT LAW ENFORCEMENT PLAN -- TO REVIEW AND UPDATE THIS PLAN AS NEEDED. I HAVE ASKED THE AGAC TO ASSIST IN THIS EFFORT BY SUBMITTING A FORMAT FOR THE DISTRICT PLANS.

A NUMBER OF THE PANELS AND PROGRAMS AT THIS CONFERENCE ARE DESIGNED TO STIMULATE YOUR THINKING ABOUT YOUR DISTRICT PLAN, AND THE REVIEW PROCESS.

BEYOND THE NEED FOR US TO MANAGE OUR RESOURCES EFFECTIVELY SO THAT WE CAN COVER ALL OUR RESPONSIBILITIES, THERE ARE SEVERAL

ENFORCEMENT AREAS I HAVE IDENTIFIED AS PRIORITIES FOR THE YEAR AHEAD.

1. DRUG WARS

FIRST, PROSECUTING THE DRUG WAR REMAINS OUR HIGHEST NATIONAL LAW ENFORCEMENT PRIORITY.

IT IS THE POLITICAL SEASON, AND SOME POLITICIANS ARE TAKING SOME CHEAP SHOTS AT THE PROGRESS OF THE WAR. THIS IS CYNICAL POLITICAL POSTURING.

IN FACT, WHILE MUCH REMAINS TO BE DONE, THERE HAS BEEN CLEAR PROGRESS.

WE HAVE RECOGNIZED ALL ALONG, THIS WOULD BE A PROTRACTED EFFORT. IT TOOK US 30 YEARS OF PERMISSIVENESS TO GET INTO THE CURRENT SITUATION; IT WILL TAKE A WHILE TO GET OUT. WE HAVE RECOGNIZED THAT THERE IS NO SILVER BULLET THAT WILL WIN THE DRUG WAR -- BUT RATHER THAT IT WILL TAKE A SUSTAINED EFFORT ON MANY FRONTS.

SPECIFICALLY, WE HAVE BEEN WAGING A TWO-FRONT WAR -- ON BOTH THE SUPPLY AND THE DEMAND SIDES.

WE HAVE ALWAYS MADE IT CLEAR THAT VICTORY MUST BE WON ON THE DEMAND SIDE. THIS IS NOT NEW; WE HAVE BEEN SAYING THIS FROM THE

FIRST NATIONAL DRUG STRATEGY. THAT STRATEGY AND ALL SUBSEQUENT STRATEGIES HAVE SET BENCHMARKS ON THE DEMAND SIDE.

AND, WE HAVE SEEN TREMENDOUS PROGRESS ON DEMAND:

THERE HAVE BEEN SUBSTANTIAL DROPS IN USAGE, PARTICULARLY AMONG YOUNGER USERS. THIS BODES WELL FOR THE FUTURE.

WE HAVE ALSO BEEN ACHIEVING SUCCESS ON THE SUPPLY SIDE.

MUST RECOGNIZE THAT LAW ENFORCEMENT EFFORTS DIRECTLY CONTRIBUTE TO DEMAND REDUCTION. LAW ENFORCEMENT DEFINES VALUES; DETERS USE; AND REDUCES AVAILABILITY BY DISRUPTING SUPPLY. NO SOCIETY HAS MADE PROGRESS IN REDUCING DEMAND WITHOUT A STRONG ENFORCEMENT PROGRAM.

WE CONSIDER THE FLAGSHIP OF OUR DRUG ENFORCEMENT STRATEGY AT THE FEDERAL LEVEL TO BE OUR OCDEF PROGRAM. IT IS A MODEL OF EFFECTIVE COOPERATION AND COORDINATION AMONG AND BETWEEN FEDERAL AGENCIES AND OUR STATE AND LOCAL COLLEAGUES.

OUR OBJECTIVE UNDER OCDEF IS TO TARGET AND DESTROY MAJOR DRUG TRAFFICKING AND MONEY LAUNDERING ORGANIZATIONS. WE WILL CONTINUE TO EMPHASIZE QUALITY OVER QUANTITY.

FORFEITURE

ONE WEAPON WE MUST MAKE EVEN GREATER USE OF IN THE DRUG WAR IS ASSET FORFEITURE.

PERHAPS THE LEAST FUNGIBLE ELEMENT IN THE DRUG CYCLE IS MONEY. SEIZURE OF MONEY IS AT LEAST AS IMPORTANT AS SEIZURE OF THE DRUGS. SO WE MUST PUT GREATER EMPHASIS ON SEIZING ASSETS.

WE MUST SEEK TO ESTABLISH AN UNBROKEN CHAIN OF AGGRESSIVE ASSET FORFEITURE PROGRAMS IN ALL DISTRICTS. AND U.S. ATTORNEYS SHOULD DEMAND A CLOSE WORKING RELATIONSHIP BETWEEN CRIMINAL PROSECUTORS AND ASSET FORFEITURE ATTORNEYS.

IN RECOGNITION OF THE PRIORITY OF THE DRUG WAR, THE PRESIDENT'S 1993 BUDGET INCLUDED SUBSTANTIAL INCREASES FOR ODCETF, DEA, FBI, AND THE U.S. ATTORNEYS.

2. VIOLENT CRIME

THE SECOND PRIORITY, I HAVE IDENTIFIED IS THE FIGHT AGAINST VIOLENT CRIME.

THE PRESIDENT HAS OFTEN NOTED THAT THE FIRST CIVIL RIGHT OF EVERY AMERICAN IS THE RIGHT TO BE FREE FROM FEAR ON OUR STREETS, IN OUR HOMES, AND IN OUR COMMUNITIES.

AND UNLESS AND UNTIL THAT RIGHT IS GUARANTEED, NO OTHER RIGHTS ARE SECURE.

I WOULD LIKE TO MAKE A COUPLE OF POINTS ON VIOLENT CRIME. THE ANSWER TO VIOLENT CRIME IS NOT TO FEDERALIZE STREET CRIME. 95% OF VIOLENT CRIME FALLS WITHIN STATE AND LOCAL JURISDICTION AND SHOULD REMAIN PRIMARILY A STATE AND LOCAL RESPONSIBILITY.

NEVERTHELESS, THERE ARE SELECTED AREAS WHERE WE CAN USE TOUGH FEDERAL LAWS IN CONJUNCTION WITH OUR STATE AND LOCAL COUNTERPARTS TO HAVE SIGNIFICANT IMPACT.

SPECIFICALLY, WE CAN USE OUR FIREARMS LAWS, ORGANIZED CRIME LAWS, AND DRUG LAWS TO NEUTRALIZE THE MOST VIOLENT CHRONIC OFFENDERS AND ORGANIZED CRIMINAL ACTIVITY.

OUR FEDERAL ANTI-VIOLENT CRIME PROGRAM BASICALLY HAS THREE COMPONENTS:

1. UNDER TRIGGERLOCK, WE ARE TARGETING THE MOST DANGEROUS, CHRONIC OFFENDERS WHO USE FIREARMS. OUR GOAL IS TO GET THESE HABITUAL OFFENDERS OFF THE STREETS AND INCAPACITATE THEM FOR A LONG TIME THROUGH STIFF SENTENCES IN FEDERAL PRISON.

BY THE END OF APRIL -- THE ONE YEAR ANNIVERSARY OF TRIGGERLOCK -- WE ARE EXPECTING ABOUT 6,000 OFFENDERS CHARGED.

THIS IS ABOUT 10% OF FEDERAL CRIMINAL CASES AND IS ABOUT DOUBLE THE PREVIOUS LEVEL OF FIREARMS PROSECUTIONS.

AGAIN, LIKE WITH OCDETF, THIS IS A PROGRAM THAT EMPHASIZES QUALITY OVER QUANTITY. OUR GOAL IS NOT TO RUN UP STATISTICS. OUR GOAL IS TO BRING HIGH-IMPACT CASES WHERE WE CAN INCAPACITATE DANGEROUS OFFENDERS WHO, FOR ONE REASON OR ANOTHER, CANNOT BE EFFECTIVELY HANDLED BY THE STATES.

TO SUPPLEMENT THE TRIGGERLOCK PROGRAM, BOTH THE FBI AND MARSHALS ARE CARRYING OUT SUBSTANTIAL FUGITIVE APPREHENSION ACTIVITIES, TARGETED AT DANGEROUS ARMED FELONS. IT IS ANTICIPATED THAT MANY OF THE FUGITIVES APPREHENDED WILL BE PROSECUTED UNDER THE TRIGGERLOCK PROGRAM.

2. THE SECOND ELEMENT OF OUR VIOLENT CRIME PROGRAM IS OUR ANTI-GANG EFFORT.

THE STRATEGY HERE IS TO USE DRUG, FIREARMS, AND RICO STATUTES TO ATTACK VIOLENT GANGS. UNLIKE MOST STATES, OUR FEDERAL LAWS GIVE US THE ABILITY TO TAKE OUT WHOLE ORGANIZATIONS. WE HAVE ALREADY TAKEN A NUMBER OF STEPS TO FIGHT GANGS.

-- UNDER THE LEADERSHIP OF DIRECTOR SESSIONS, THE FBI HAS REASSIGNED 300 AGENTS FROM FCI TO VIOLENT CRIME AND SET UP TASK

FORCES IN 39 CITIES. THESE AGENTS WILL SUPPLEMENT THE 1600 FBI AGENTS ALREADY WORKING ON VIOLENT CRIME.

-- ATF AND FBI HAVE SET UP JOINT TASK FORCES IN FOUR CITIES.

-- ATF AND FBI WILL BE SETTING UP A JOINT GANG ANALYSIS CENTER.

-- INS WILL BE ADDING 150 INVESTIGATORS TARGETED AGAINST CRIMINAL ALIENS INVOLVED IN GANG ACTIVITY.

3. THE THIRD ELEMENT OF OUR VIOLENT CRIME PROGRAM IS THE WEED & SEED PROJECT. THIS PROJECT HAS NOW BECOME A MAJOR PRESIDENTIAL INITIATIVE.

RESPONSIBILITY FOR THIS PROGRAM WILL REST SQUARELY ON THE SHOULDERS OF THE U.S. ATTORNEY.

THIS PROGRAM INVOLVES A COMPREHENSIVE EFFORT TO ASSIST COMMUNITIES IN TAKING BACK THE STREETS. IT INVOLVES COORDINATION OF LAW ENFORCEMENT WITH SOCIAL PROGRAMS.

THE PHILOSOPHY BEHIND THE PROGRAM IS THAT RESTORATION OF OUR URBAN NEIGHBORHOODS CANNOT SUCCEED WITHOUT STRONG LAW ENFORCEMENT

AND THAT, IN ORDER TO TAKE HOLD, SOCIAL PROGRAMS MUST BE INTEGRATED WITH LAW ENFORCEMENT ACTIVITIES.

WEED AND SEED INVOLVES BASICALLY THREE PHASES:

THE FIRST IS THE WEEDING PHASE -- THE USE OF TOUGH LAW ENFORCEMENT TOOLS TO REMOVE THE HABITUAL VIOLENT OFFENDERS AND RECLAIM THE STREETS FOR LAW ABIDING CITIZENS.

THE SECOND PHASE OF THE WEED AND SEED PROGRAM INVOLVES COMMUNITY POLICING -- INVOLVING THE COMMUNITY WITH THE POLICE TO FIGHT CRIME.

AND THE THIRD PHASE IS THE SEED PHASE -- THE COORDINATION AND INTEGRATION OF SOCIAL PROGRAMS WITH THE LAW ENFORCEMENT EFFORT TO MAINTAIN CONTROL OF THE COMMUNITY BY LAW ABIDING CITIZENS. IN THIS REGARD, WEED AND SEED REPRESENTS A SHIFT IN APPROACH FROM A "BODY COUNT" APPROACH OF SIMPLY COUNTING UP ARRESTS AND CONVICTIONS TO A STRATEGY OF CONTROLLING THE TERRITORY.

AND SUBSTANTIAL RESOURCES ARE BEING DEVOTED TO WEED AND SEED. WE HAVE SEVERAL PILOT PROGRAMS GOING NOW AND WILL BE EXPANDING TO MORE CITIES IN 1992. IN FY 1993, THE PRESIDENT'S BUDGET REQUESTS \$30 MILLION IN FUNDS ON THE WEED SIDE AND \$100 MILLION ON THE SEED SIDE EVEN WITHOUT ENTERPRISE ZONES. IF

ENTERPRISE ZONES ARE ENACTED THERE WILL BE AN ADDITIONAL 400 MILLION ON THE SEED SIDE.

THE FIRST PANEL OF THIS CONFERENCE WILL ADDRESS THIS INNOVATIVE APPROACH TO LAW ENFORCEMENT, SO THAT YOU WILL BE FULLY PREPARED TO CARRY OUT YOUR RESPONSIBILITIES IN EACH OF YOUR DISTRICTS.

BESIDES THESE OPERATIONAL WAYS WE CAN HELP OUR STATE AND LOCAL COLLEAGUES ATTACK VIOLENT CRIME, THERE IS ANOTHER DIMENSION TO THE FEDERAL ROLE.

POLICE AND PROSECUTORS NATIONWIDE ARE DOING A SUPERB JOB.

UNFORTUNATELY, THEY ARE BEING LET DOWN BY INADEQUATE CRIMINAL JUSTICE SYSTEMS.

MANY STATES LACK ADEQUATE PRISON CAPACITY, AND SO THEIR SYSTEMS HAVE BECOME "REVOLVING DOOR" SYSTEMS.

MANY STATES FAILED TO ADOPT THE REFORMS WHICH THE FEDERAL GOVERNMENT CARRIED OUT IN THE 1980'S -- PRE-TRIAL DETENTION, ABOLITION OF PAROLE, TOUGH DETERMINATE SENTENCING.

WE SHOULD STAND SHOULDER TO SHOULDER WITH OUR STATE AND

LOCAL COLLEAGUES, SUPPORTING THEM IN THEIR QUEST FOR IMPROVEMENTS TO THEIR CRIMINAL JUSTICE SYSTEMS.

3. WHITE COLLAR CRIME

THE THIRD PRIORITY I HAVE IDENTIFIED IS THE EFFORT AGAINST WHITE COLLAR FRAUD.

WE SHOULD NEVER FORGET THAT A WHITE COLLAR BUSINESSMAN CAN STEAL AS MUCH WITH THE STROKE OF A PEN AS 100 ARMED BANK ROBBERS.

OUR FIGHT AGAINST WHITE COLLAR FRAUD IS ESSENTIAL TO PRESERVE THE INTEGRITY OF, AND CONFIDENCE IN, THE MARKETPLACE.

HERE, I SEE OUR CHALLENGE AS TWOFOLD.

WE MUST FIRST KEEP UP THE MOMENTUM IN OUR ESTABLISHED ENFORCEMENT AREAS, SUCH AS DEFENSE CONTRACT FRAUD, FINANCIAL INSTITUTION FRAUD, AND HUD FRAUD.

OUR SUCCESS IN FINANCIAL INSTITUTION FRAUD HAS BEEN SPECTACULAR. SINCE OCTOBER 1988, WE HAVE HAD ____ CONVICTIONS.

I WOULD LIKE TO CONGRATULATE ALL OF YOU FOR A JOB WELL DONE.

BUT, AT THE SAME TIME THAT WE CONTINUE THESE EFFORTS, WE MUST MOVE AGGRESSIVELY INTO OTHER EMERGING AREAS OF CONCERN.

AS YOU KNOW, HEALTH CARE FRAUD IS AN AREA OF DEEP CONCERN. IN 1991 THIS COUNTRY SPENT OVER \$700 BILLION FOR HEALTH CARE. GAO ESTIMATES THAT FRAUD AND ABUSE MAY ACCOUNT FOR \$50 BILLION A YEAR.

THE U.S. ATTORNEYS HAVE BEEN OUT IN FRONT IN PURSUING HEALTH CARE FRAUD, BUT MUCH MORE REMAINS TO BE DONE. AGAIN, UNDER THE LEADERSHIP OF DIRECTOR SESSIONS, THE BUREAU IS REASSIGNING 50 AGENTS FROM FCI TO HEALTH CARE FRAUD.

WE MUST ALSO MOVE AGGRESSIVELY TO DEAL WITH POTENTIAL FRAUD IN THE INSURANCE INDUSTRY; AND ALSO TO DEAL WITH THE MARKETING FRAUD AND THE VERY THREATENING AREA OF COMPUTER CRIMES.

IN THE 1993 BUDGET, THE PRESIDENT IS SEEKING SUBSTANTIAL NEW RESOURCES FOR ALL THESE AREAS.

BEFORE LEAVING THE WHITE-COLLAR CRIME AREA, I WANT TO COMMEND YOUR EFFORTS TO DEAL WITH A VERY TROUBLESOME PROBLEM, ONE OF GREAT CONCERN TO OUR CITIZENS, AND THAT IS THE AREA OF CHILD EXPLOITATION AND OBSCENITY.

THE BUSINESS OF OBSCENITY IS FREQUENTLY CARRIED OUT BY LARGE BUSINESS ENTERPRISES THAT OPERATE ACROSS STATE LINES AND OFTEN INTERNATIONALLY.

FEDERAL LAW ENFORCEMENT IS THE ONLY ONE THAT CAN PROVIDE THE DETERRENT FOR THESE ASSAULTS ON OUR COMMUNITY'S VALUES.

I ASK THAT YOU ALL KEEP THIS AS A PRIORITY.

4. CIVIL RIGHTS

I HAVE IDENTIFIED THE PROTECTION OF CIVIL RIGHTS AS A FOURTH PRIORITY.

AN AREA OF PARTICULAR CONCERN HERE REMAINS "HATE CRIMES".

IN HIS STATE OF THE UNION ADDRESS, THE PRESIDENT DECRIED THE UGLINESS OF DISCRIMINATION AND EXPRESSED CONCERN OVER RECENT INCIDENTS OF BIGOTRY.

WE MUST KEEP OUR GUARD UP AND BE PREPARED TO MOVE SWIFTLY WHENEVER HATE CRIMES OCCUR.

WE ARE SEEKING ADDITIONAL RESOURCES IN 1993 TO ENABLE U.S. ATTORNEYS TO PLAY A GREATER ROLE IN CIVIL RIGHTS ENFORCEMENT.

SO THAT IS A BRIEF OVERVIEW OF THE DEPARTMENT'S TOP PRIORITIES.

I REALIZE THAT EACH OF YOU MUST MIX AND MATCH THESE SOMEWHAT DEPENDING UPON THE LOCALE AND WHAT HAPPENS TO BE UPPERMOST IN YOUR CONSTITUENTS' MINDS.

AND I REALIZE THAT IN PARTICULAR JURISDICTIONS THERE MAY BE LOCAL PRIORITIES THAT COMPETE WITH THESE.

THE SIMPLE FACT IS THAT WE HAVE A FULL PLATE IN FEDERAL LAW ENFORCEMENT.

AND THAT IS WHY WE ALL MUST -- AS I SAID AT THE BEGINNING -- ENSURE THAT WE ARE MAKING THE BEST USE OF PERSONNEL AND RESOURCES ACROSS THE NATION.

BEFORE CONCLUDING, I WOULD LIKE TO MENTION THREE AREAS WHERE WE NEED YOUR LEADERSHIP.

WHILE THESE WILL BE DISCUSSED IN GREATER DETAIL BOTH AT THIS CONFERENCE AND IN THE WEEKS AHEAD, I WANT TO TOUCH ON THEM BRIEFLY HERE.

FIRST, IT IS IMPERATIVE THAT WE ADHERE TO THE SENTENCING GUIDELINES.

THE SENTENCING COMMISSION HAS BEEN STUDYING COMPLIANCE BY U.S. ATTORNEYS' OFFICES.

THEIR FINDINGS SUGGEST THAT WHILE COMPLIANCE IS GENERALLY GOOD, THERE MAY BE POCKET AREAS WHERE CIRCUMVENTION MAY BE OCCURRING.

WE DO NOT WANT TO RETURN TO THE DAYS BEFORE THE SENTENCING GUIDELINES WHEN MANY FEDERAL JUDGES HANDED OUT INADEQUATE SENTENCES.

WE MUST REQUIRE OUR PROSECUTORS TO ADHERE TO THE GUIDELINES, AND LEADERSHIP MUST BE PROVIDED BY THE U.S. ATTORNEY.

SECOND, IT IS IMPORTANT THAT WE CONTINUE TO PLACE EMPHASIS ON STRENGTHENING OUR LAW ENFORCEMENT COORDINATING COMMITTEES.

I MENTIONED THAT I WANTED THE WATCHWORD OF MY TENURE TO BE "TEAMWORK".

THAT MEANS NOT ONLY TEAMWORK WITHIN THE DEPARTMENT OF JUSTICE, BUT ALSO TEAMWORK WITH OTHER FEDERAL AGENCIES AND OUR STATE AND LOCAL LAW ENFORCEMENT COUNTERPARTS.

THE LECC'S ARE THE FRAMEWORK WITHIN WHICH WE CAN STRUCTURE OUR COOPERATION, AND I ASK YOUR LEADERSHIP IN BUILDING AND STRENGTHENING THESE COMMITTEES.

THIRD, WE NEED TO KEEP THE MOMENTUM UP IN DEBT COLLECTION.

AS YOU KNOW, IT TOOK A LOT OF HARD WORK TO GET THE DEBT COLLECTION LEGISLATION THROUGH CONGRESS LAST YEAR.

OVER THE PAST YEAR, JUDGE MURPHY AND OTHERS HAVE BEEN WORKING TIRELESSLY TO IMPROVE OUR COLLECTION PERFORMANCE.

IT IS IMPORTANT TO PRESERVING THE DEPARTMENT'S LITIGATING AUTHORITY THAT WE SHOW RESULTS.

SO I ASK FOR YOUR LEADERSHIP IN MAXIMIZING RECOVERIES.

IN CLOSING, LET ME REITERATE HOW PROUD I AM TO WORK WITH YOU.

WE HAVE A GREAT TEAM.

WE HAVE AN EXCELLENT RECORD OF ACCOMPLISHMENT OVER THE PAST THREE YEARS.

WE HAVE A GOOD IDEA OF THE CHALLENGES THAT LIE AHEAD, AND WE HAVE A SOUND PLAN FOR MEETING THEM.

I KNOW WE WILL BE SUCCESSFUL BECAUSE I KNOW HOW PROFESSIONAL AND DEDICATED YOU ALL ARE.

THANK YOU FOR GIVING ME THE CHANCE TO SHARE THESE THOUGHTS WITH YOU THIS MORNING.

I HOPE TO HAVE THE CHANCE TO VISIT WITH ALL OF YOU OVER THE NEXT TWO DAYS.

AND I WISH YOU A VERY SUCCESSFUL CONFERENCE. GOD BLESS YOU ALL.

GET SERIOUS ABOUT VIOLENT CRIME, ATTORNEY GENERAL WARNS

Orlando Sentinel (Florida)

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Body

U.S. Attorney General William P. Barr said Tuesday he is encouraging Florida and other states to build more prisons and adopt tough federal gun and drug laws to crack down on violent criminals.

"The long-term solution to violent crime is to strengthen state criminal justice systems," Barr said Tuesday in Orlando. "Frankly, we are going to have to incapacitate more people, especially habitual offenders."

Barr, attending the U.S. Attorneys' National Conference at Walt Disney World this week, met with 150 of the nation's top federal law enforcement officers and prosecutors. The group discussed everything from legislation to programs for fighting drugs, gangs and fraud, said U.S. Attorney Robert Genzman of Orlando, who hosted the private conference.

Barr said states spend an average of 2.2 percent of their budgets on corrections.

Although he did not say if federal money would be made available to states experiencing budget shortfalls during the recession, Barr said some states like Texas have learned a hard lesson that crime pays when prisons are crowded.

The Texas prison system is "wholly dysfunctional," he said, and inmates serve an average of 22 days for each year they are sentenced behind bars. As a result, he said, state officials have embarked on an ambitious prison-building program.

Frustrated state prosecutors in Florida say inmates here can serve as little as 20 percent of their sentences because prisons are crowded.

The state recently completed building prisons in North Florida but has not had the money to open them.

"The way I view it, public safety is the first duty of government," Barr said. "There is no other solution to take care of crime now. We're only talking about less than 1 percent of the population."

The U.S. Bureau of Prisons, currently operating about 50 institutions, also is on a building spree. Barr said by 1995, the number of federal prisons will have tripled under President Bush. Bush announced this year that he will allocate \$5.6 billion to build 3,400 more federal prison beds.

In 1990, there were about 775,000 inmates in federal and state prisons in the United States, Barr said.

Until state prison and criminal justice systems can fill the gap, federal police agencies and prosecutors will step in and charge violent criminals under federal laws that include lengthy, mandatory terms for drug dealers and armed criminals.

GET SERIOUS ABOUT VIOLENT CRIME, ATTORNEY GENERAL WARNS

Following Bush's lead to clean up inner cities, Barr said the Justice Department is working on Operation Weed and Seed, a program of taking back neighborhoods from gangs and crack cocaine dealers. Under the program, local and federal police agencies plan to dismantle the criminal organizations, improve relations between police and residents, and develop closer coordination between the needy and social service agencies.

Barr, 41, is a former CIA official and veteran White House and Justice Department attorney. He served as acting attorney general since last August and was sworn in as head of the Justice Department in November, replacing Richard Thornburgh.

He vowed to step up investigations of fraud in the nation's health care system and recently has assigned 50 more FBI agents who previously worked on espionage cases to investigate medical fraud. Next year, he said, more FBI agents and prosecutors will be added to the fight.

On the drug front, Barr said Colombia's powerful Cali cartel will be "hit hard" in the coming months by the United States and its South American allies, but he said there also will be no quick fix to the drug problem.

"It's taken 30 years to get into this drug problem, and it won't go away overnight," he said.

Graphic

PHOTO: William P. Barr

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Barr pushes for more prisons: AG says states that build more penitentiaries see crime rates drop

THE

David Jackson Staff Writer of The Dallas Morning News

Staff Writer of The Dallas Morning News

U.S. Attorney General William Barr carried his campaign for more prisons to Texas on Tuesday, earning him a warm reception from the Greater Dallas Crime Commission.

Mr. Barr said crime rates dropped in states that increased prison space and violent crime rates rose in states that didn't increase prison space, including Texas. The attorney general has said he supports removal of a court-imposed limit on Texas prison capacity.

"The choice is clear,' Mr. Barr told the crowd, "either more prisons or more crime.'

Texas is among more than 40 states that operate prisons under court decrees. The state, whose prison system has been under court supervision since 1981, is seeking at least to modify the consent decree ordered that year by U.S. District Judge William Wayne Justice of Tyler.

Last year, Texas voters approved a \$1.1 billion bond issue to build 25,300 prison beds.

Mr. Barr spoke the day after a Washington non-profit organization called the Sentencing Project issued a report saying that although the United States leads the world in locking up people, an increase in incarceration has had little effect on crime. Authors of the study attributed decreases in crime to decreases in the number of people ages 15 to 24, those most likely to commit crimes.

Mr. Barr described that demographic analysis as "simply wrong.' He also said incarceration rates should be compared with the number of crimes committed, not population.

He said increasing prison space reduces crime by putting repeat offenders behind bars for longer periods.

According to Mr. Barr, California quadrupled its prison population during the 1980s, and various forms of violent crime fell as much as 37 percent. But in Texas, which did not increase prison space, violent crime increased 29 percent in the decade.

Marc Mauer, assistant director of the Sentencing Project, questioned the assertion that more prisons meant less crime. Mr. Mauer said governments should focus more on health, education and employment programs, thereby approaching crime as they would a fatal disease.

Mr. Barr told the crime commission that he did not discount the importance of social spending, but incarceration was a higher priority.

"One without the other does not work," Mr. Barr said.

Dallas law enforcement officers who attended the speech applauded Mr. Barr's call for more prisons.

"These people who are professional criminals don't ever fear the penitentiary' because they serve so little of their sentences," said Dallas County District Attorney John Vance.

Dallas Police Chief Bill Rathburn said that although prisons aren't the only answer, they are part of the answer, "and I think they have been neglected."

Critics of Mr. Barr's prison proposals have charged him with election-year posturing on behalf of his boss, President Bush. Mr. Barr noted that he has been in office only 2 1/2 months and needs to meet as many law enforcement officials as possible.

"If people think I'm going to sit in my office and twiddle my thumbs, they can forget it," Mr. Barr said.

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--- **Index References** ---

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NewsRoom

REMARKS OF

**WILLIAM P. BARR
UNITED STATES ATTORNEY GENERAL**

**BEFORE THE
SAN DIEGO CHAMBER OF COMMERCE**

THANK YOU FOR THAT INTRODUCTION. IT IS A GREAT HONOR FOR ME TO HAVE THE OPPORTUNITY TO SPEAK WITH THE MEN AND WOMEN OF THE SAN DIEGO CHAMBER OF COMMERCE.

AS PEOPLE COMMITTED TO THE VITALITY OF THIS REGION'S BUSINESS COMMUNITY, YOU KNOW THE ESSENTIAL ROLE OF LAW ENFORCEMENT IN MAINTAINING AN ENVIRONMENT THAT PROMOTES THE FREE FLOW OF COMMERCE. LAW ENFORCEMENT SERVES AS A FOUNDATION FOR ECONOMIC PROSPERITY AND SOCIAL ORDER. THE SAFETY OF YOUR CUSTOMERS AND EMPLOYEES AND THE PROTECTION OF YOUR PROPERTY DEPENDS UPON THE RULE OF LAW IN YOUR COMMUNITY.

THAT FOUNDATION OF LAW ENFORCEMENT IS WHAT I WOULD LIKE TO SPEAK TO YOU ABOUT TODAY.

SINCE I BECAME ATTORNEY GENERAL, I HAVE BEEN STRESSING:

-- THAT THE FIRST DUTY OF GOVERNMENT IS TO PROTECT THE PHYSICAL SECURITY OF ITS CITIZENS;

-- THAT WE MUST STEP UP THE FIGHT AGAINST VIOLENT CRIME AND DO SO BY BUILDING A BROAD COALITION THAT ENGAGES ALL ELEMENTS OF THE COMMUNITY IN A WORKING PARTNERSHIP WITH LAW ENFORCEMENT; AND

-- THAT, IF WE ARE TO HAVE ANY CHANCE OF REBUILDING CRIME-PLAGUED URBAN COMMUNITIES, OUR SOCIAL PROGRAMS MUST GO HAND-IN-HAND WITH STRONG LAW ENFORCEMENT.

I BELIEVE THESE IDEAS FIT IN WELL WITH WHAT THE CHAMBER OF COMMERCE IS TRYING TO ACCOMPLISH, AS YOU WORK TO KEEP OUR STREETS SAFE AND OUR NEIGHBORHOODS SECURE FROM VIOLENT CRIME.

IT IS ESPECIALLY APPROPRIATE THAT I AM SPEAKING HERE IN THE WAKE OF THE RIOTS IN LOS ANGELES.

THOSE RIOTS SERVE AS A STARK REMINDER OF THE RELATIONSHIP BETWEEN THE NEED FOR LAW AND ORDER, ON THE ONE HAND, AND OUR DESIRE TO PURSUE PROGRAMS THAT PROMOTE ECONOMIC ADVANCEMENT AND SOCIAL REVITALIZATION ON THE OTHER.

I WANT TO FOCUS ON THAT RELATIONSHIP BRIEFLY.

IN PUBLIC DISCOURSE THESE DAYS, WE SOMETIMES HEAR PEOPLE DEBUNK THE NEED FOR A TOUGHER LAW ENFORCEMENT RESPONSE TO VIOLENT CRIME.

THEY FREQUENTLY DISMISS ANY RELIANCE ON POLICE,

PROSECUTORS, AND PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED.

INSTEAD, THEY ARGUE THAT -- TO DEAL WITH VIOLENT CRIME -- WE SHOULD RELY PRINCIPALLY ON EDUCATION, HOUSING AND OTHER SOCIAL PROGRAMS DESIGNED TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

NOW I BELIEVE WE NEED BOTH APPROACHES. AND WE NEED A PROPER BALANCE. IN THE PAST, I THINK TOO MANY ADVOCATES OF SOCIAL PROGRAMS HAVE FAILED TO APPRECIATE THE NEED FOR STRONG LAW ENFORCEMENT.

TODAY, I WANT TO MAKE THREE POINTS:

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT, THESE DAYS, WE CANNOT AFFORD TO DE-EMPHASIZE A TOUGH LAW ENFORCEMENT APPROACH.

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL REHABILITATION SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE KINDS OF PROGRAMS WE PURSUE.

I.

SO, FIRST LET ME TURN TO WHY I BELIEVE A TOUGH LAW ENFORCEMENT RESPONSE MUST CONTINUE TO BE A PRIORITY.

VIOLENT CRIME IN OUR COUNTRY IS AT INTOLERABLY HIGH LEVELS.

MURDERS AND RAPE ARE ON THE INCREASE.

GANG VIOLENCE IS SPREADING.

CRIME SEEMS TO BE BECOMING MORE VICIOUS AND WANTON.

OF PARTICULAR CONCERN, JUVENILES ARE RESPONSIBLE FOR AN INCREASING PART OF THE VIOLENT CRIME WE SEE ABOUT US.

TODAY, FOR EXAMPLE, YOUTHS 18 AND UNDER ACCOUNT FOR OVER 21 PERCENT OF ALL ARRESTS FOR MURDER.

AND WE ARE SEEING A COLD-BLOODEDNESS, A REMORSELESSNESS, WE HAVE NEVER SEEN BEFORE.

INNER-CITY NEIGHBORHOODS ARE PARTICULARLY HARD HIT

BY VIOLENT CRIME.

NOT LONG AGO, I VISITED A WEED AND SEED NEIGHBORHOOD IN ANOTHER CITY, AND SAW ROW UPON ROW OF HOUSES GUARDED BY BARS -- BARS ON THE WINDOWS, BARS ON THE DOORS.

THIS REMINDS US THAT IN OUR INNER CITIES, IT IS THE LAW-ABIDING CITIZENS WHO ARE BEING DEPRIVED OF THEIR FREEDOM -- FORCED TO LIVE BEHIND LOCKS AND BARS.

IT IS THE VIOLENT PREDATORS WHO SEEM TO BE AT LIBERTY -- FREE TO ROAM THE STREETS WITH IMPUNITY.

AND IT IS THE POOR AND MINORITIES THAT ARE MOST VICTIMIZED.

LOW-INCOME HOUSEHOLDS SUFFER THE HIGHEST ECONOMIC LOSSES, AND MINORITIES ARE DISPROPORTIONATELY THE VICTIMS OF MURDER, RAPE, AND AGGRAVATED ASSAULT.

THOSE WHO ARGUE THAT WE SHOULD DE-EMPHASIZE TOUGH LAW ENFORCEMENT MEASURES AND INSTEAD ADDRESS CRIME PRIMARILY THROUGH SOCIAL PROGRAMS ARE MISSING A BASIC POINT.

IN THIS PERVASIVE ATMOSPHERE OF VIOLENCE AND FEAR,
EVEN THE BEST-DESIGNED SOCIAL PROGRAMS CANNOT TAKE
ROOT.

THE PROBLEM TODAY IS THAT EFFORTS AT REVITALIZING
OUR URBAN COMMUNITIES ARE BEING STRANGLERED BY CRIME.

IT IS INCREASINGLY CLEAR THAT TOUGH LAW
ENFORCEMENT MEASURES TO SUPPRESS VIOLENT CRIME ARE AN
ABSOLUTE PRE-REQUISITE FOR SOCIAL PROGRAMS TO BE
SUCCESSFUL.

WHAT GOOD IS IT TO BUILD PUBLIC HOUSING ONLY TO
SEE IT TAKEN OVER AND RUN BY DRUG TRAFFICKERS?

WHAT GOOD IS IT TO PUT A "MODEL SCHOOL" IN OUR
INNER-CITY NEIGHBORHOOD ONLY TO SEE IT BECOME A
BATTLEGROUND FOR GANGS?

IT WAS ONCE A SHIBBOLETH THAT "POVERTY CAUSES
CRIME".

BUT -- TODAY -- WHAT IS CLEAR IS THAT "CRIME IS
CAUSING POVERTY".

BUSINESSES ARE DRIVEN FROM CRIME-RIDDEN

NEIGHBORHOODS TAKING JOBS AND OPPORTUNITIES WITH THEM.

POTENTIAL INVESTORS AND WOULD-BE EMPLOYERS ARE SCARED AWAY.

EXISTING OWNERS ARE DETERRED FROM MAKING IMPROVEMENTS.

AS PROPERTY VALUES GO DOWN, OWNERS DISINVEST.

IN SHORT, YOU CANNOT HAVE PROGRESS AMID CHAOS.

NO URBAN REDEVELOPMENT PROGRAM CAN ARREST THE DECLINE OF OUR INNER CITIES -- AND NO ANTI-POVERTY SOCIAL PROGRAMS CAN TAKE HOLD -- UNLESS THEY ARE COMBINED WITH TOUGH LAW ENFORCEMENT MEASURES TO SUPPRESS VIOLENT CRIME.

II.

AND THAT BRINGS ME TO MY SECOND POINT -- HOW DO WE GO ABOUT GETTING THESE CRIMINALS OFF THE STREET, AND MAKING OUR COMMUNITIES SAFER?

THOSE WHO PUT THEIR HOPE IN SOCIAL REHABILITATION TO REDUCE CRIME IN THE LONG TERM MUST ALSO REALIZE

THAT -- IN THE SHORT TERM -- THERE ARE MANY CHRONIC, VIOLENT CRIMINALS WREAKING HAVOC AND DESTRUCTION IN OUR STREETS.

THESE ARE INCORRIGIBLE, REPEAT OFFENDERS WHO COMMIT A STAGGERING NUMBER OF CRIMES WHENEVER THEY ARE OUT ON THE STREETS. THEY COMMIT CRIMES WHEN THEY ARE OUT ON BAIL, PAROLE, OR PROBATION.

OUR EXPERIENCE SHOWS THAT THE ONLY WAY TO INCAPACITATE THESE VIOLENT CRIMINALS IS TO LOCK THEM UP. IF WE DON'T TAKE FIRM ACTION TO DEAL WITH THE PROBLEM OF VIOLENT CRIME TODAY, THEN ALL OF OUR HOPES FOR PROGRESS TOMORROW WILL BE DASHED.

I THINK OUR PRIORITY IN LAW ENFORCEMENT IS TO TARGET AND INCARCERATE THESE CHRONIC, REPEAT OFFENDERS. IF WE ARE GOING TO MAKE ANY HEADWAY AGAINST VIOLENT CRIME IN THE 1990'S, I THINK WE'LL NEED TO DO THREE THINGS:

FIRST, WE ARE GOING TO HAVE TO CONTINUE TO MAKE SUBSTANTIAL INVESTMENTS IN OUR LAW ENFORCEMENT.

SECOND, WE ARE GOING TO HAVE TO CONTINUE TO PRESS FOR URGENTLY-NEEDED LEGAL REFORMS AT BOTH THE FEDERAL

AND THE STATE LEVEL.

THIRD, WE ARE GOING TO HAVE TO BE AS AGGRESSIVE AS WE CAN BE IN USING OUR RESOURCES TO TARGET AND INCAPACITATE THE MOST VIOLENT OFFENDERS.

LET ME TOUCH BRIEFLY ON EACH OF THESE.

AS TO RESOURCES, EVEN IN THESE VERY TIGHT FISCAL TIMES, WE HAVE BEEN VERY FORTUNATE AT THE FEDERAL LEVEL TO HAVE A PRESIDENT WHO HAS MADE FIGHTING CRIME A PRIORITY.

IN THE FIRST THREE YEARS OF THIS ADMINISTRATION, THE DEPARTMENT OF JUSTICE BUDGET HAS BEEN INCREASED BY 60 PERCENT; ANOTHER 10 PERCENT INCREASE IS SOUGHT FOR THIS YEAR.

THIS HAS MEANT THOUSANDS OF NEW FEDERAL PROSECUTORS AND LAW ENFORCEMENT AGENTS AROUND THE COUNTRY.

ALSO, DURING THE FIRST 3 YEARS, WE HAVE OBTAINED FUNDING TO INCREASE THE FEDERAL PRISON CAPACITY 118 PERCENT -- MORE THAN DOUBLING FEDERAL PRISON CAPACITY.

AND, IN THE WAR ON DRUGS, WE'VE GONE FROM \$4.5 BILLION IN THE BEGINNING OF THE ADMINISTRATION TO \$12.7 BILLION THIS YEAR.

BUT, IT IS AT THE STATE LEVEL WHERE THE MAIN BATTLE IS BEING FOUGHT. IF WE ARE GOING TO MAKE ANY HEADWAY AGAINST VIOLENT CRIME, THIS SAME KIND OF COMMITMENT TO RESOURCES IS GOING TO HAVE TO BE MIRRORED AT THE STATE LEVEL.

NOW IS NOT THE TIME TO SCRIMP ON RESOURCES FOR LAW ENFORCEMENT. AND NOW IS NOT THE TIME FOR CUTBACKS.

FOR EXAMPLE, IN FISCAL YEAR 1990, ONLY 2.5 OF THE SPENDING BY STATE AND LOCAL GOVERNMENTS WAS FOR CORRECTIONS (ABOUT \$24.7 BILLION).

IN INNUMERABLE OTHER AREAS, WE AS A SOCIETY HAVE RECOGNIZED THE NEED TO INVEST SUBSTANTIAL RESOURCES IN ORDER TO AVOID THE RISK OF HARM.

-- FOR EXAMPLE, WE INVEST TENS OF BILLIONS OF DOLLARS TO REDUCE THE LOSS OF LIFE IN CAR CRASHES, INCLUDING INVESTMENT IN HIGHWAY BARRIERS AND SAFETY DEVICES.

-- OR WE SPEND TENS OF BILLIONS A YEAR TO REGULATE AIR QUALITY AND BILLIONS TO REGULATE HAZARDOUS WASTE DISPOSAL, IN ORDER TO AVOID THE HARM CAUSED BY EXPOSURE TO POLLUTANTS AND TOXINS.

-- WE SPEND BILLIONS ON ASBESTOS REMOVAL ALONE.

THE PUBLIC APPEARS TO ACCEPT THE NEED FOR THESE SUBSTANTIAL EXPENDITURES, EVEN THOUGH SOME OF THEM GUARD AGAINST RELATIVELY SPECULATIVE OR REMOTE HARMS.

WE ARE WILLING AS A SOCIETY TO SPEND MILLIONS JUST TO AVERT ONE PREMATURE DEATH.

FOR EXAMPLE, EACH YEAR STATEWIDE PERIODIC MOTOR VEHICLE INSPECTION PROGRAMS COST \$12.6 MILLION PER EACH LIFE SAVED.

VARIOUS ACADEMIC SURVEYS OF PEOPLE'S WILLINGNESS TO PAY TO AVOID RISKS OF DEATH INDICATE THAT PUBLIC SPENDING OF UP TO \$2.6 MILLION TO AVERT ONE DEATH WOULD BE JUSTIFIED.

IF WE APPLIED THE SAME LOGIC -- AND COST/BENEFIT ANALYSIS -- USED IN OUR OTHER PUBLIC HEALTH AND SAFETY PROGRAMS TO CORRECTIONS, WE WOULD BE INVESTING MUCH

GREATER AMOUNTS IN CORRECTIONS.

AT LEAST 6,500 HOMICIDES ARE COMMITTED EACH YEAR BY PERSONS ON BAIL, PROBATION OR PAROLE. USING THE \$2.6 MILLION PER LIFE SAVED FIGURE, WOULD MEAN, IF WE USED THE LOGIC OF OTHER PROGRAMS, SPENDING \$17 BILLION TO AVERT THESE HOMICIDES. THIS WOULD ALMOST DOUBLE WHAT WE ARE SPENDING NOW ON CORRECTIONS, AND THIS DOES NOT TAKE INTO ACCOUNT ALL THE OTHER NON-LETHAL CRIMES TO BE AVERTED -- THE BURGLARIES, RAPES, ASSAULTS AND ROBBERIES.

OBVIOUSLY, I AM NOT SUGGESTING THAT WE DOUBLE OUR CORRECTIONS BUDGETS.

BUT I AM SAYING THAT THE NOTION THAT WE CANNOT AFFORD TO SPEND MORE ON LAW ENFORCEMENT, AND PARTICULARLY, CORRECTIONS, IS FLATLY WRONG.

SECONDLY, IN ADDITION TO RESOURCES, WE'RE STILL IN DIRE NEED OF LEGAL REFORM IN THIS COUNTRY.

WE TOUGHENED UP THE FEDERAL SYSTEM CONSIDERABLY DURING THE 80'S. WE GOT STRONG PRE-TRIAL DETENTION; WE ABOLISHED PAROLE; WE GOT TOUGH SENTENCES.

RIGHT NOW, THE FEDERAL SYSTEM IS PROBABLY THE TOUGHEST IN THE NATION. BUT MORE HAS TO BE DONE.

THE PRESIDENT'S CRIME BILL WILL CARRY OUT THIS UNFINISHED AGENDA AT THE FEDERAL LEVEL.

HE'S SEEKING THE DEATH PENALTY.

HE'S SEEKING STRICTER PENALTIES FOR FELONS WHO USE FIREARMS IN THEIR OFFENSES.

HE'S SEEKING A BROADENING OF THE GOOD FAITH EXCEPTION TO THE EXCLUSIONARY RULE, SO THAT CRIMINALS DO NOT GO FREE DUE TO INADVERTENT ERRORS BY THE POLICE.

AND HE'S SEEKING AN END TO HABEAS CORPUS ABUSE.

WE RECENTLY SAW A TEXTBOOK EXAMPLE OF THE ABUSE OF HABEAS CORPUS HERE IN THE CALIFORNIA CASE OF ROBERT ALTON HARRIS -- THE MURDERER OF TWO TEENAGE BOYS -- WHO WAS ABLE TO DELAY HIS PUNISHMENT FOR 11 YEARS BY FILING A SERIES OF 16 STATE AND FEDERAL PETITIONS.

THIS ABUSE OF HABEAS CORPUS IS UNDERMINING THE INTEGRITY OF THE STATE CRIMINAL JUSTICE SYSTEM.

IT HAS BECOME AN AVENUE FOR THE ENDLESS REOPENING OF CASES AND THE RAISING OF FRIVOLOUS CLAIMS THAT HAVE NOTHING TO DO WITH GUILT OR INNOCENCE.

EVERY YEAR, THE VICTIMS' FAMILIES HAVE TO WITNESS THE SPECTACLE OF THE REOPENING OF CASES. JUSTICE NEVER COMES TO AN END. THERE IS NO FINALITY.

WE HAVE TO PUT A STOP TO THIS ABUSE. THAT IS WHY THE PRESIDENT'S CRIME BILL IS SO IMPORTANT.

BUT REFORM ON THE FEDERAL LEVEL CAN ONLY HAVE A LIMITED IMPACT ON VIOLENT STREET CRIME. WE STILL NEED LEGAL REFORM ON THE STATE LEVEL.

IF THE 80'S WERE THE TIME WHERE WE REFORMED THE FEDERAL SYSTEM, THE 90'S HAVE TO BE A TIME WHERE WE REFORM THE STATE SYSTEMS.

IN THE VERY NEAR FUTURE I WILL BE RELEASING A COMPREHENSIVE VIOLENT CRIME REPORT THAT CONTAINS 24 SPECIFIC RECOMMENDATIONS ON STRENGTHENING STATE CRIMINAL JUSTICE SYSTEMS.

IT CONTAINS, AMONG OTHER THINGS, SPECIFIC RECOMMENDATIONS ON TRUTH IN SENTENCING; UPDATED

EVIDENTIARY RULES TO ENHANCE THE TRUTH-FINDING FUNCTIONS OF THE TRIAL; IMPROVEMENTS IN THE JUVENILE JUSTICE SYSTEM; AND PROVISIONS WHICH PROTECT THE ROLE OF THE VICTIM IN THE CRIMINAL JUSTICE PROCESS.

I HOPE ORGANIZATIONS SUCH AS THIS ONE FIND THIS REPORT USEFUL IN THEIR CONTINUING EFFORTS TO STRENGTHEN AND IMPROVE THE CRIMINAL JUSTICE SYSTEM.

BEYOND THE NEED FOR RESOURCES AND REFORM -- I MENTIONED THE NEED TO FOCUS OUR EXISTING RESOURCES WHERE THEY WILL DO THE MOST GOOD AGAINST THE HARDEST CORE ELEMENT.

WHILE WE RECOGNIZE THAT 95% OF VIOLENT CRIME FALLS WITHIN STATE AND LOCAL RESPONSIBILITY, THIS ADMINISTRATION BELIEVES IN FORGING A STRONG PARTNERSHIP -- ESPECIALLY WITH LAW ENFORCEMENT -- TO FIGHT VIOLENT CRIME TOGETHER.

THIS ADMINISTRATION HAS INITIATED A NUMBER OF PROGRAMS WHERE, BY WORKING JOINTLY WITH STATE AND LOCAL LAW ENFORCEMENT, WE CAN BRING OUR FEDERAL ASSETS TO BEAR AND HELP THE STATES DEAL MORE EFFECTIVELY WITH HARDCORE OFFENDERS.

- o IN "OPERATION TRIGGERLOCK", FOR EXAMPLE, WE USE TOUGH FEDERAL FIREARM STATUTES TO GIVE HEAVY MANDATORY MINIMUM SENTENCES TO CHRONIC REPEAT FIREARM OFFENDERS. THAT PROJECT IS JUST ONE YEAR OLD, AND IN ONE YEAR, WE HAVE CHARGED OVER 6000 INDIVIDUALS -- THAT IS JUST OVER 10 PERCENT OF OUR FEDERAL CRIMINAL CASELOAD.

- o BECAUSE OF OUR TOUGH FEDERAL FIREARM STATUTES, DRUG STATUTES AND OUR RICO STATUTES, WE HAVE THE ABILITY TO TAKE OUT ENTIRE GANG ORGANIZATIONS IN ONE FELL SWOOP. THE VIOLENT TRAFFICKERS PROJECT HERE IN PHILADELPHIA IS A MODEL OF HOW THE FEDERAL GOVERNMENT, ALONG WITH OUR STATE AND LOCAL COLLEAGUES CAN WORK TOGETHER. WE'VE TAKEN THAT PROGRAM NATIONWIDE.

- o ANOTHER EFFECTIVE PROGRAM IS OPERATION GUNSMOKE, WHICH WE RECENTLY CONCLUDED. THIS WAS THE LARGEST FUGITIVE ROUND UP IN HISTORY, AND WAS CARRIED OUT IN 14 CITIES ACROSS THE NATION. IT WAS CONDUCTED BY THE U.S. MARSHALS ALONG WITH STATE AND LOCAL LAW ENFORCEMENT. WE TRIED TO GET THE MOST CHRONIC VIOLENT OFFENDERS, AND APPREHENDED 3,313 IN EIGHT WEEKS -- CHARGING MANY OF THEM FEDERALLY IN ORDER TO GET THE MANDATORY PENALTIES.

- o ALSO, WE HAVE INITIATED COOPERATIVELY WITH OUR STATE AND LOCAL COLLEAGUES NEW POLICIES TO HELP THE STATES IN PRISON LITIGATION. IN JANUARY I STATED OUR POSITION THAT THE BUSINESS OF RUNNING PRISONS BELONGS TO STATE OFFICIALS, NOT TO JUDGES AND SPECIAL MASTERS, AND THAT WE WOULD SUPPORT THOSE STATES WHO SEEK TO REGAIN CONTROL OVER THEIR PRISON SYSTEMS. AS MIKE POINTED OUT, LAST MONTH THE DEPARTMENT FILED A BRIEF IN SUPPORT OF THE CITY'S MOTION TO HAVE THE JAIL CAP ELIMINATED.

WHAT ALL THIS MEANS IS THAT, IF WE FOCUS OUR EFFORTS ON INCAPACITATING CHRONIC VIOLENT OFFENDERS, AND IF WE INVEST ADEQUATE RESOURCES, ACHIEVE NEEDED LEGAL REFORMS, AND WORK COOPERATIVELY IN MOUNTING AGGRESSIVE OPERATIONS (PARTICULARLY THOSE TARGETED AT CHRONIC OFFENDERS) -- THEN WE WILL HAVE A REAL PROSPECT OF REDUCING VIOLENT CRIME AND PROVIDING AN ENVIRONMENT WITHIN WHICH -- AND A FOUNDATION UPON WHICH -- OUR EFFORTS TO REBUILD OUR COMMUNITIES CAN BE SUCCESSFUL.

III.

AND THAT BRINGS ME TO MY THIRD AND FINAL POINT.

OVER THE LAST TWENTY-FIVE YEARS WE HAVE POURED TRILLIONS OF DOLLARS INTO SOCIAL WELFARE PROGRAMS.

CONTRARY TO SOME RECENT SUGGESTIONS, THERE WERE NO CUTBACKS IN ANTI-POVERTY SPENDING IN THE 1980'S OR 90'S. THERE HAS BEEN CONTINUOUS AND REAL GROWTH IN THE SPENDING AND IT NOW STANDS AT RECORD LEVELS.

HAVE WE GOTTEN ALL WE SHOULD FROM THIS INVESTMENT?

WHILE SOME PROGRAMS -- SUCH AS HEAD START -- HAVE PROVEN WORTHWHILE, I THINK THAT ANY FAIR-MINDED OBSERVER WOULD HAVE TO SAY THAT OVERALL, WE SHOULD BE DOING BETTER.

IN MY VIEW, WE MUST BE SMARTER ABOUT HOW WE SPEND ON SOCIAL PROGRAMS.

IN THIS REGARD, FROM THE BEGINNING OF HIS ADMINISTRATION, THE ADMINISTRATION HAS BEEN PUSHING A REFORM AGENDA THAT SEEKS TO AVOID THE MISTAKES OF THE PAST, AND TO PROMOTE REAL OPPORTUNITY.

-- THE PRESIDENT BELIEVES WE MUST PROVIDE OPPORTUNITY FOR PEOPLE, NOT DEPENDENCY; RATHER THAN JUST PROVIDING A SAFETY NET, WE NEED TO PROVIDE A

LADDER OUT OF POVERTY. THAT IS WHY WE ARE PROPOSING ENTERPRISE ZONES TO BRING JOBS AND INVESTMENT INTO THE CITIES. AND THAT'S WHY WE'RE PROPOSING H.O.P.E. -- TO GIVE PUBLIC HOUSING RESIDENTS THE OPPORTUNITY TO PURCHASE THEIR HOMES.

-- WE MUST ALSO STRENGTHEN THE FAMILY AND THE OTHER SOCIAL INSTITUTIONS THAT ARE CRITICAL FOR A SUCCESSFUL COMMUNITY -- NOT TEAR THEM DOWN AND TRY TO REPLACE THEM WITH AN ALL POWERFUL, ALL KNOWING BUREAUCRACY. WE HAVE BEEN URGING WELFARE REFORM. THE CURRENT SYSTEM REWARDS NON-MARRIAGE AND ILLEGITIMACY. WE HAVE TO TURN AROUND THESE INCENTIVES AND PROMOTE STABLE FAMILY LIFE.

-- AND, WE MUST COORDINATE OUR SOCIAL PROGRAMS WITH A FOUNDATION OF TOUGH LAW ENFORCEMENT SO THAT LAW ABIDING CITIZENS IN OUR INNER CITIES CAN RECLAIM THEIR COMMUNITIES FROM VIOLENT PREDATORS AND PULL THEMSELVES UP OUT OF POVERTY.

AND TO ACCOMPLISH THIS, THE PRESIDENT HAS LAUNCHED THE "WEED AND SEED" PROGRAM. THE PROGRAM IS CURRENTLY UNDERWAY IN 19 CITIES ACROSS THE COUNTRY -- ACTUALLY 20, BECAUSE WE'VE JUST STARTED A MAJOR PROGRAM IN LOS ANGELES -- AND WE'RE LOOKING FORWARD TO WORKING WITH

CHIEF WILLIAMS IN LOS ANGELES ON OUR PROGRAM. AS MIKE MENTIONED, WE HAVE A PROGRAM UNDERWAY HERE IN PHILADELPHIA IN THE WEST KENSINGTON CORRIDOR.

THE PRESIDENT IS SEEKING A SUBSTANTIAL EXPANSION OF THE WEED AND SEED PROGRAM IN HIS BUDGET FOR NEXT YEAR -- HE IS REQUESTING \$500 MILLION FOR THE PROGRAM; \$480 MILLION FOR SOCIAL "SEED" PROGRAMS, \$30 MILLION TO STRENGTHEN POLICE EFFORTS, PARTICULARLY TO SUPPORT COMMUNITY POLICING -- WHICH IS SO IMPORTANT TO BUILDING A BOND BETWEEN POLICE AND THE COMMUNITY.

WEED AND SEED INVOLVES THE TARGETING OF SPECIFIC BESIEGED NEIGHBORHOODS AND THE FOCUSING OF RESOURCES TO HELP THE RESIDENTS TO TAKE BACK THEIR STREETS.

IN SHORT, WEED AND SEED IS A PROGRAM DESIGNED TO BRING PEACE TO THE COMMUNITY AND TO PROVIDE A FOUNDATION FOR PROGRESS AND OPPORTUNITY.

THE CHALLENGES AHEAD OF US ARE SUBSTANTIAL ONES. BUT I BELIEVE WE ARE ADVANCING A REFORM AGENDA THAT IS BASED ON LESSONS OF THE PAST AND THAT CAN SUCCEED IN UPLIFTING AND REVITALIZING OUR INNER CITIES.

THE OVERWHELMING MAJORITY OF OUR CITIZENS ARE LAW

ABIDING PEOPLE WHO WANT NOTHING MORE THAN A CHANCE TO LIVE IN PEACE, TO HAVE A JOB, TO WORK HARD AND TO IMPROVE THEIR LIVES AND THOSE OF THEIR CHILDREN.

WE OWE IT TO THESE PEOPLE TO MOVE FORWARD WITH A REFORM PROGRAM AND TOUGH LAW ENFORCEMENT POLICIES THAT HELP THEM ACHIEVE THOSE GOALS.

THANK YOU VERY MUCH.

#

MEXICANS UNDETERRED BY BARRIERS ON THE BORDER

By [Al Kamen](#)

February 18, 1992

TIJUANA, MEXICO -- Attorney General William P. Barr's new multimillion-dollar plan to curb illegal immigration calls for new border lights and fences and 150 additional Border Patrol agents in this area, where nearly half the 1 million arrests along the southern border are made each year.

Javier Ortega, a 40-year-old auto body repairman from Guadalajara, is not impressed.

Ortega and dozens of other men and women -- and a 4-year-old girl -- are standing on the Mexican side of a recently constructed 10-foot-high, solid steel barricade. There is a gaping hole dug under the wall.

"It doesn't matter how many people, horses, bicycles, helicopters or planes they use," Ortega said. "People will go. It doesn't matter if the fence is electric, we'll fry, but we're still going."

If the United States really wants to keep people out, said Carlos, a 28-year-old restaurant worker who did not give his last name, "They need to do it like in {East} Germany and put soldiers every 10 feet and shoot people.

"But even then we'll go," he laughed.

A few hours later -- just after the Border Patrol's afternoon shift change -- a group of eight young men sat atop another section of the wall staring down at a lone agent. The agent turned away for a moment and the group jumped down and dashed about 200 yards toward a K-mart on the U.S. side of the border in San Ysidro, Calif. Other agents gave chase and it appeared some were caught. Others got away.

The nightly ritual had begun. On a rainy night last Wednesday, agents chased as many as 2,000 people -- no one knows for sure -- through the narrow canyons, parking lots, apartment complexes and businesses along the border. Some were picked up by friends or smugglers waiting on the other side. Others walked up Interstate 5.

"We'll always come back," said Luis, a 21-year-old shoe repairman from Mexicali. He said his job last year at a Nebraska meat-packing plant paid eight times what he could earn at home. "We have to look for a way to survive." A Huge Economic Temptation

Immigration and Naturalization Service (INS) officials, civil rights activists and immigration experts interviewed on both sides of the border generally agreed with Luis and his friends: Short of a Berlin Wall solution, with agents instructed to shoot to kill, the huge wage disparity between the United States and Mexico will always tempt large numbers of people to sneak across the border.

4347/2018 MEXICANS UNDETERRED BY BARRIERS ON THE BORDER, THE WASHINGTON POST
They shared Border Patrol agent Ed Conlin's observation shortly after the group dashed to the K-mart. "If someone really, really, really wants to make it, he will. We can't stop him."

They also agree that the number of people trying to cross has increased in recent years, although Hispanic rights groups say INS inflates its estimates, and fails to take into account multiple apprehensions of the same people.

The number of people caught at the border dropped sharply for three years after the 1986 Immigration Reform and Control Act legalized more than 3 million aliens already living in the United States. But apprehensions have increased in the past two years to pre-law levels, with more than 1 million likely to be intercepted this year.

The sharpest disagreement is a longstanding one over whether the **barricade** and increased agents, sanctions on employers who hire illegal aliens and other enforcement measures can ever succeed in substantially reducing the numbers of illegal entrants.

Barr, announcing the plan Feb. 10 in a speech in San Diego, just north of here, said it was needed to stop illegal aliens from "flouting our sovereignty and ignoring our process." He said he recognized his proposals were not "a silver bullet," but they were a "steady march in the right direction."

Critics of the U.S. enforcement effort say it is a waste of time and resources and may even impede efforts to address the underlying problem -- the 8 to 1 wage gap between the two countries.

U.S. emphasis on police measures, such as the new wall, increases resentment and economic nationalism in Mexico, said Wayne A. Cornelius, director of the Center for U.S.-Mexican Studies at the University of California at San Diego. **Barr's** proposals "make it more difficult for the Mexican government to adopt free trade policies" needed for a long-term solution.

Focusing on enforcement is "highly inflammatory on the Mexican side, much more than U.S. people realize," he said. "Even if the practical impact {on immigration} is negligible, the symbolic effect is great."

"Every country has a right to control its borders," said Jorge Bustamante, president of the state-funded College of the Northern Frontier in Tijuana, which closely studies immigration.

"But the United States wants to have its cake and eat it too. You want to stop illegal immigration, but you want and need cheap labor," he said. "You cannot have both. It is a U.S. schizophrenia, wanting to open and close your borders at the same time."

As a result, the State Department and economic interests want free trade and a partnership with Mexico, he said, while the INS "treats Mexico as the enemy."

Increased enforcement of the type outlined by **Barr** "is just a political game," he said. The new steel **barricade** will do little to stop people, he said, "but it will have a very strong effect on political consumption in Southern

California," where anti-immigrant sentiment is strong and growing.

There is some evidence that increased enforcement may in some cases worsen the situation, he said. Higher entry difficulties and costs -- the smugglers dropped their fees after the 1986 law but have raised them back to more than \$300 a person -- may be encouraging people to stay longer each time, Bustamante said. The increased stay in the United States then encourages some to bring their families across, actually increasing the magnet effect by the very effort to keep them out.

The 1986 law itself may have created a strong magnet, legalizing millions of male workers who now appear to be bringing over their families in increasing numbers.

But immigration officials insist that, unless the United States is willing to declare the border to be open, the laws must be enforced. James B. Turnage Jr., INS director for the San Diego area, said the 1986 law, which introduced employer sanctions for the first time, can eventually do a great deal to "turn off the {jobs} magnet."

The sanctions, which include fines of up to \$3,000 per worker and jail terms for repeated offenses, are "the last best chance short of militarizing the border," he said. "We can certainly control this, and we must.

"This is the most generous country in the world," in terms of number of people legally admitted each year, Turnage said. "It's not closing the golden door, but we can't continue on having people crashing in through the back door." Those trying to do so must be told to "get in line and wait your turn like everyone else."

"If this goes on," he said, "there will be a backlash" against all immigration.

Civil rights groups argue there has been a backlash against sanctions, whose effectiveness has been undermined, if not destroyed, by widespread use of forged documents. The threat of sanctions causes employers to discriminate against Hispanic citizens and legal residents, opponents say, and employers also are calling for repealing sanctions. More enforcement, critics argue, will simply increase opposition.

Much of the criticism against new enforcement efforts is misguided and overstated, INS officials said, focusing on each element, rather than the broader enforcement plan.

No one enforcement tool will deter illegal immigration, Turnage said, adding that there needs to be a "comprehensive approach" including employer sanctions and increased border security.

INS officials say they are under no illusions that the new steel **barricade**, which will eventually extend inland from the ocean for about 14 miles, will keep people out. "It's not a people fence," said Gustavo De La Vina, head of the Border Patrol here. "It doesn't stop people."

But it has dramatically reduced the ability of large numbers of people and drug smugglers to simply drive pickups and cars across the border. It has reduced rock-throwing at agents in their vehicles, he said, and has made it more difficult for some to get across, especially women and children. Fence Provides 'More Control'

Podcasts

When a 7-year-old dies on Border Patrol's watch

A 7-year-old girl died after being taken into Border Patrol custody, reportedly from dehydration and exhaustion. Also, the U.S. responds to climate change at the U.N. summit. Plus, a homeless character on "Sesame Street" debuts.

▶ **Listen** 19:37

2 days ago

(1)

GREAT TO BE HERE WITH THE LAW ENFORCEMENT LEADERS OF THE SAN DIEGO COMMUNITY.

BILL BRANIFF HAS TOLD ME ABOUT THE SUPERB LEVEL OF COOPERATION THAT EXISTS AMONG STATE-LOCAL-AND FEDERAL LAW ENFORCEMENT IN THIS DISTRICT.

ONE REASON I WANTED TO COME TO SAN DIEGO IS TO EXPRESS OUR APPRECIATION FOR THAT COOPERATION.

IN MY VIEW, THIS CLOSE PARTNERSHIP IS ESSENTIAL IF WE ARE TO HAVE ANY SUCCESS IN COMBATING CRIME IN OUR COMMUNITIES.

AND SO MY PRIORITY, AS ATTORNEY GENERAL, IS TO DO ALL I CAN TO STRENGTHEN THAT PARTNERSHIP AND TO PURSUE PROGRAMS THAT EMPHASIZE JOINT ACTION.

(AND I'LL SAY A LITTLE MORE ABOUT THAT IN A MOMENT.)

BUT ANOTHER REASON I WANTED TO COME TO SAN DIEGO WAS TO SEE FIRST-HAND THE GREAT CHALLENGE WE

FACE IN CONTROLLING OUR BORDERS AGAINST THE INFLUX OF ILLEGAL ALIENS AS WELL AS AGAINST DRUG SMUGGLING.

THESE UNLAWFUL ACTIVITIES HAVE HAD A PARTICULAR IMPACT ON THE SAN DIEGO AREA. ONLY 40% OF ILLEGAL CROSSINGS ON A 14 MI. STRETCH.

LAST NIGHT I SPENT ALMOST FOUR HOURS ON THE BORDER WITH OUR BORDER PATROL, AND I LEARNED A LOT. [INTRODUCE GENE McNARY, CONG. DUCAN HUNTER, DUKE CUNNINGHAM.]

ONE THING I LEARNED IS THAT THE COUNTRY IS FORTUNATE INDEED ~~THE~~ TO HAVE THE KIND OF DEDICATED, PROFESSIONAL MEN AND WOMEN WE HAVE SERVING IN THE BORDER PATROL AND THE INS.

THEY ARE DOING A GREAT JOB AGAINST DAUNTING ODDS AND DESERVE OUR GRATITUDE AND COMMENDATION.

ANOTHER THING I LEARNED WAS THAT THERE HAS BEEN SOME PROGRESS IN THE LAST YEAR.

3

WITH THE STRENGTHENING OF THE FENCING,
AND THE GREATER RESOURCES THAT GENE
MCNARY HAS PUT IN -- INCLUDING LIGHTING
AND SENSING DEVICES -- WE HAVE INCREASED
APPREHENSION RATES ~~OF~~ OF ILLEGAL ALIENS,
INCREASED DRUG INTERDICTIONS, WHILE
AT THE SAME TIME DECREASING BORDER
VIOLENCE, ASSAULTS ON BORDER PATROL,
AND BANDIT ACTIVITY AGAINST VULNERABLE
ILLEGAL ALIENS.

BUT CLEARLY MORE -- ~~MUCH MORE~~ ~~THAT~~
~~IS TO BE DONE~~ REMAINS TO BE DONE.

AS ATTORNEY GENERAL I HAVE A
SPECIAL COMMITMENT TO THIS. I AM
DETERMINED TO DO ALL I CAN TO
GET INS THE RESOURCES NEEDED TO DO
THE JOB, -- TO ENFORCE THE IMMIGRATION
LAWS -- FIRMLY AND FAIRLY.

~~LAST YEAR WE BOUGHT ALMOST A 20%
INCREASE IN INS RESOURCES. UNFORTUNATELY,
CONGRESS~~

ADMINISTRATION'S
IN THE PRESIDENT'S BUDGET WE ARE
SEEKING A 13% INCREASE FOR INS.
IN THESE TIGHT TIMES, THIS REPRESENTS
ONE OF THE HIGHEST INCREASES FOR ANY AGENCY.

BUT WE ARE NOT GOING TO WAIT UNTIL NEXT FISCAL YEAR.

AS REPORTED OVER THE WEEKEND, WE ARE TAKING ACTION IMMEDIATELY TO STRENGTHEN ~~THE IMMIGRATION SYSTEM~~ THE ENFORCEMENT ~~AND IMPLEMENTATION~~ OF OUR IMMIGRATION LAWS.

Before turning to the details, I want to make a general observation.

AS AMERICANS, WE MUST ALWAYS REMEMBER THAT IMMIGRATION MADE THIS COUNTRY GREAT.

IMMIGRATION ^{WITHIN THIS PROCESS} IS STILL GOOD FOR AMERICA. AND WE STILL HAVE THE WELCOME MAT OUT.

WE HAVE ~~SET~~ ^{SYSTEM AND} SET UP A GENEROUS AND FAIR ~~IMMIGRATION~~ PROCESS THAT CONTINUES OUR TRADITION OF IMMIGRATION.

BUT AS WE WELCOME PEOPLE IN THE FRONT DOOR -- ~~THEY ARE~~ PEOPLE WHO ARE PATIENTLY GOING THROUGH THE LAWFUL PROCESS, RESPECTING OUR SYSTEM --

WE SEE PEOPLE CRASHING IN THE BACK DOOR AND BACK WINDOWS, VIOLATING OUR

5

LAWS, FLOUTING OUR SOVEREIGNTY, AND IGNORING OUR PROCESS.

MANY OF THESE PEOPLE SIMPLY WANT ~~TO~~ BETTER ~~THEIR~~ LIVES ^{FOR THEMSELVES AND THEIR FAMILIES.} AND OUR HEARTS GO OUT TO THEM.

BUT AS A NATION, WE MUST HAVE CONTROL OVER IMMIGRATION PROCESS. WE MUST HAVE A SYSTEM WITH SOME INTEGRITY.

WE CAN'T ALLOW THE ILLEGAL SIDE TO OVERWHELM THE LEGAL SIDE.

THE MORE WE ^{PROTECT} ~~ENFORCE~~ AGAINST PEOPLE BREAKING IN THE BACK DOOR, THE MORE GENEROUS, BENEFICENT, AND FAIRER WE CAN BE IN WELCOMING ~~THESE~~ PEOPLE IN THE FRONT DOOR

NOW, THIS IS ONE OF THOSE AREAS WHERE THERE ARE NO QUICK AND EASY SOLUTIONS,

PROGRESS REQUIRE
~~WE~~ WILL ~~TAKE FIRM AND STEADY~~
ACTION ON MANY FRONTS. BUT
OVER TIME WE CAN MAKE SIGNIFICANT
PROGRESS.

SOUTH OF THE BORDER

OVER THE LONGHAUL, ECONOMIC DEVELOPMENT ~~IN MEXICO AND SOUTH AMERICA~~ WILL DO MOST TO REDUCE ILLEGAL IMMIGRATION.

IN THIS REGARD OUR NEIGHBORS HAVE RECENTLY
~~PRESIDENT SARINAS HAS~~ MADE DRAMATIC PROGRESS IN ECONOMIC AND POLITICAL REFORMS THAT SHOULD PAY OFF OVERTIME.

AND ~~PRESIDENT BUSH'S~~ VISION OF ~~PURSuing~~ A NORTH AMERICAN FREE TRADE AGREEMENT WILL HELP IMPROVE ~~MEXICO'S~~ ECONOMY, *CONDITIONS IN ALL OF NORTH AMERICA,* AS WELL AS OUR OWN.

~~THESE MEASURES WILL REDUCE THE "PUSH" FACTORS THAT~~

AT THE SAME TIME, ACTION IS BEING TAKEN TO REDUCE ^{SOME OF} THE "PULL FACTORS" OR MAGNETS THAT DRAW ILLEGAL ALIENS HERE.

WILL REDUCE
THE MAGNET OF EMPLOYMENT. ~~WILL BE REDUCED BY~~

(IRCA)

THE IMMIGRATION REFORM AND CONTROL ACT
OF 1986, ^{WHICH} INSTITUTED SANCTIONS AGAINST
EMPLOYERS WHO ~~HE~~ HIRE ILLEGAL ALIENS.
THE SANCTIONS HAVE ONLY BEEN IN FULL
~~THE~~ EFFECT SINCE 1990. STEADY
ENFORCEMENT OF IRCA SHOULD MAKE A
DIFFERENCE. [AND AS WE ENFORCE IRCA WE MUST
ENSURE THEY NOT BE USED AS AN EXCUSE FOR DISCRIMINATION
AGAINST THOSE WHO ARE HERE LAWFULLY.]

AT THE SAME TIME, MANY STATES
ARE BRINGING GREATER DISCIPLINE TO
THEIR WELFARE SYSTEMS. BY REDUCING
THE PROSPECT OF EASY WELFARE BENEFITS,
THIS REFORM PROCESS MAY WELL REDUCE
ONE OF THE ATTRACTIONS OF ILLEGAL
IMMIGRATION.

IN ADDITION TO THESE FACTORS,
I BELIEVE WE MUST STEADILY
STRENGTHEN INS' OPERATIONS ENFORCEMENT
PROGRAM.

IN THIS REGARD, THE INITIATIVE
ANNOUNCED OVER THE WEEKEND REPRESENTS
A BROAD AND BALANCED BUTTRESSING
OF INS' OPERATIONS.

I THINK THESE ACTIONS, COUPLED

WITH THE EXPANSION CONTAINED IN NEXT YEARS BUDGET, WILL BE A SIGNIFICANT STEP FORWARD IN ~~BRINGING GREATER~~ STRENGTHENING THE INTEGRITY OF THE IMMIGRATION PROCESS.

ON THE ONE HAND, WE ARE SEEKING TO FACILITATE LAWFUL IMMIGRATION BY IMPROVING THE SERVICES PROVIDED LAWFUL IMMIGRANTS. IN THE FRONT DOOR

ON THE OTHER HAND, WE ARE SEEKING TO STEP UP ENFORCEMENT AGAINST ILLEGAL IMMIGRATION THROUGH THE BACK DOOR

ON THE ENFORCEMENT, ~~OUR~~ WE HAVE A THREE-PRONG STRATEGY.

- 1. FIRST, ENTRANCE INTERDICTION ALONG THE BORDER. WE ACCOMPLISH THIS BY ADDING 300 BORDER PATROL AGENTS. ALL WILL BE COMMITTED TO THE SOUTHERN BORDER. -- THE GREATEST BLOCK TO SAN DIEGO. (200 next yr.)

FURTHER, WE ARE USING FINE MONEY AND ASSET FORFEITURE FUNDS TO ADD

NEW EQUIPMENT ON THE BORDER, INCLUDING LIGHTING, SENSOR DEVICES, AND VEHICLES.

2.

THE SECOND PRONG IS STRENGTHENING ENFORCEMENT OF EMPLOYER SANCTIONS. WE WILL DO THIS BY ADDING 50 INVESTIGATORS DEDICATED TO EMPLOYER SANCTIONS.

FURTHER, WE ARE UNDERTAKING A MAJOR INITIATIVE TO COMBAT DOCUMENT FRAUD -- AND IT IS FRAUDULENT DOCUMENTS THAT TENDS TO UNDERCUT THE EFFECTIVENESS OF EMPLOYER SANCTIONS.

THE I.S.M.

WE WILL BE RECALLING GREEN CARDS ISSUED BEFORE 1970 AND REPLACING THEM WITH NEW COUNTERFEIT PROOF GREEN CARDS. THESE PRE-1970 CARDS ARE THE ONES MOST FREQUENTLY USED IN DOCUMENT FRAUD.

3.

THE THIRD PRONG OF OUR STRATEGY RELATES TO THOSE ALREADY ~~PRE~~ ILLEGALLY PRESENT IN THE COUNTRY. WE WILL TARGET OUR RESOURCES MAINLY ~~THOSE~~ ON THOSE ENGAGED IN CRIMINAL ACTIVITY.

~~WHILE~~ MOST OF THOSE WHO ILLEGALLY ENTER THE COUNTRY TEND TO OBEY OUR LAWS ONCE HERE, ^{BUT} ~~A FEW~~ ^{A FEW} SOME EMBARK ON A CAREER OF CRIME. -- RUNNING THE GAMUT FROM CAR THEFT TO DRUG TRAFFICKING AND VIOLENT GANG ACTIVITY. [increasing percentage of prisoners are criminal aliens]

WE WILL BE ~~BE~~ ADDING 150 INVESTIGATORS TO LOCATE AND DEPORT (OR IN SOME CASES IMPRISON) CRIMINAL ALIENS. THIS REPRESENTS A 10% INCREASE IN OUR INVESTIGATIVE MANPOWER. ~~THESE NEW~~ ~~PA~~ ~~MOST~~ OF THESE NEW RESOURCES WILL BE ALLOCATED TO TARGET CITIES WITH PARTICULAR CRIMINAL ALIEN PROBLEMS. S. D. WILL GET 10. L. A. WILL GET 15.

TRACKING: ^{FINALLY, ON THE ENFORCEMENT SIDE} IN ADDITION, WE ARE ESTABLISHING A NATIONAL CRIMINAL ALIEN TRACKING CENTER THAT WILL HELP STATE AND LOCAL GOV'T LOCATE AND APPREHEND CRIMINAL ALIENS.

II, ON THE SERVICE SIDE, WE WILL UPGRADE SERVICE TO LAWFUL IMMIGRANTS AND TRAVELLERS BY :

-- adding 250 temporary workers to relieve the backlog of applications;

- adding 100 new Information Officers to reduce lines at INS offices;
- adding millions of dollars to improve information systems and other support to more fully automate the application process.
- adding 100 asylum officers to more effectively process those seeking asylum or refugee status
- adding over 240 airport inspectors to reduce lines at airports and to start a program in London to screen and pre-clear American-bound travellers before they get on the plane. (Approx. 25% of air travel to U.S. comes via London.)
- finally, ~~to~~ in high impact cities we will be extending the ~~hours~~ the hours INS offices to improve service.

NONE OF THESE INITIATIVES IS COSTING THE TAXPAYERS MORE MONEY.

(12)

WE ARE PAYING FOR THESE MEASURES WITH FINES, ASSET FORFEITURE PROCEEDS, ~~AND~~ MORE DISCIPLINED APPLICATION OF FEES PAID FOR SERVICES, AND BY REPROGRAMMING EXISTING RESOURCES.

NONE OF THIS IS A SILVER BULLET. THERE IS NO SILVER BULLET. BUT IT IS ~~AN~~ ~~A~~ A STRONG STEP IN A STEADY MARCH IN THE RIGHT DIRECTION.

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NOW I'VE BEEN FOCUSING ON OUR IMMIGRATION INITIATIVE BECAUSE I KNOW THIS IS A MATTER OF KEY CONCERN HERE.

BUT WE ARE ALL LAW ENFORCEMENT OFFICERS AND HAVE A GENERAL CHARTER TO DEAL WITH CRIME.

I WANTED TO SPEND A FEW MOMENTS BRIEFLY ~~&~~ OUTLINING SOME OF MY THOUGHTS ON DEALING WITH VIOLENT CRIME.

ON THE ^{ONE} ~~OTHER~~ HAND, THERE IS THE LAW ENFORCEMENT APPROACH WHICH SEES CRIME AS CAUSED BY CRIMINALS AND SEEKS TO DEAL WITH CRIME BY USING AGGRESSIVE ENFORCEMENT AND TOUGH LAWS TO DETER OR TO INCAPACITATE VIOLENT CRIMINALS.

ON THE OTHER HAND, THERE IS THE SOCIAL REHABILITATION APPROACH TO VIOLENT CRIME. THIS TENDS TO SEE CRIME AS CAUSED BY SOCIETAL ILLS AND SEEKS TO DEAL WITH CRIME BY REMEDYING THESE ILLS THROUGH VARIOUS SOCIAL PROGRAMS.

PROponents OF THIS APPROACH SAY THAT LAW ENFORCEMENT CANNOT SOLVE THE PROBLEM OF VIOLENT CRIME BY SUPPRESSION, AND THAT WE NEED TO ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

NOW I RECOGNIZE THERE IS SOME TRUTH IN THE NOTION LAW ENFORCEMENT CANNOT DO THE JOB ALONE. WE DO NEED SOCIAL PROGRAMS TO RESTORE OUR COMMUNITIES. IN OTHER WORDS, WE NEED BOTH APPROACHES, AND WE NEED A PROPER BALANCE.

~~BUT, ALL TOO OFTEN, THOSE WHO ADVOCATE DEALING WITH CRIME BY ATTACKING "ROOT CAUSES" MAKE A BASIC ERROR.~~

HOWEVER, I THINK TOO MANY ADVOCATES OF ATTACKING THE "ROOT CAUSES HAVE FAILED TO APPRECIATE THE NEED FOR VIGOROUS LAW ENFORCEMENT. ALL TOO FREQUENTLY, THEY PRESENT THEIR SOCIAL PROGRAMS AS AN ALTERNATIVE TO TOUGH LAW ENFORCEMENT. MEN

THEY GIVE SHORT SHRIFT TO THE NEED FOR TOUGHER LAW ENFORCEMENT -- DISMISSING RELIANCE ON POLICE, PROSECUTORS, AND PRISONS AS OVERLY PUNITIVE AND UNENLIGHTENED.

THEY SAY "LET'S NOT SPEND MORE MONEY ON POLICE AND PRISONS;
LET'S SPEND IT ON SCHOOLS, ^{AND HOUSING}"

TODAY, I WANT TO MAKE THREE POINTS ~~WHICH RELATE TO THIS
TENSION BETWEEN LAW ENFORCEMENT RESPONSE AND A SOCIAL PROGRAMS'
RESPONSE TO VIOLENT CRIME.~~

FIRST, I WANT TO EXPLAIN WHY I BELIEVE THAT SOCIAL PROGRAMS
CANNOT SUBSTITUTE FOR TOUGH LAW ENFORCEMENT, AND THAT, THESE
DAYS, WE CANNOT AFFORD TO DE-EMPHASIZE A TOUGH LAW ENFORCEMENT
APPROACH. *IF ANYTHING, THE NEED FOR VIGOROUS LAW
ENFORCEMENT IS PARAMOUNT.*

SECOND, I WANT TO DISCUSS WHAT WE HAVE TO DO ON THE LAW
ENFORCEMENT SIDE TO HAVE A REAL IMPACT ON VIOLENT CRIME.

AND THIRD, I WANT TO SUGGEST THAT -- ON THE SOCIAL
REHABILITATION SIDE -- WE HAVE TO BE A LOT SMARTER ABOUT THE
KINDS OF PROGRAMS WE PURSUE.

I.

SO, FIRST LET ME TURN TO WHY I BELIEVE A TOUGH LAW
ENFORCEMENT RESPONSE MUST CONTINUE TO BE A PRIORITY.

~~THOSE WHO WOULD GIVE SHORT SHRIFT TO TOUGH LAW ENFORCEMENT~~

Anyone who has been to an inner city area sees how they are held in the grip of crime and fear.

It is residents of these areas -- the poor and the minorities who are the most victimized by crime.

In Cabrini Green housing project in Chicago, mothers have their children sleep in bath tubs to avoid stray gunshot that fly around the complex.

Those who argue that we should de-emphasize tough law enforcement and ~~not~~ instead address crime primarily through social programs are missing a basic point.

U.S. TO ADD 300 AGENTS ALONG MEXICAN BORDER; IMMIGRATION: A MAJOR INS EXPANSION WILL DEAL WITH A SURGE IN ILLEGAL ENTRIES, DELAYS IN ASSISTING NEWCOMERS.

Los Angeles Times

February 9, 1992, Sunday, Home Edition

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Section: Part A; Page 1; Column 3; National Desk

Length: 1052 words

Byline: DG

By RONALD J. OSTROW, TIMES STAFF WRITER

Dateline: WASHINGTON

Body

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Faced with a surge in illegal immigrants and delays in assisting immigrants, Atty. Gen. William P. Barr will announce today a major expansion of the Immigration and Naturalization Service that includes hiring 300 agents to help patrol the U.S.-Mexico border.

Justice Department officials said the \$100-million-plus initiative also will include 200 investigators mainly assigned to pursue immigrants suspected of crimes, particularly gang members, establishment of a National Criminal Alien Tracking Center and the use of surplus Pentagon equipment ranging from helicopters and land vehicles to field meals.

In addition, the program will add 240 airport inspectors, 100 information officers to help reduce long lines at INS offices, 100 employees to work with refugee and asylum applicants and 250 temporary workers to help reduce immigration backlogs.

The 300 new Border Patrol agents will be stationed in California, Texas, Arizona and New Mexico, with the largest number in California, department officials said. The U.S.-Mexico border now has about 2,500 agents, with roughly 800 assigned to the San Diego sector.

Barr, who is in Southern California for a border inspection and a meeting with law enforcement officials, among other activities, is expected to provide more details of the program during a stop in San Diego today.

An early draft of the announcement quotes Barr as saying the expansion will seek to "strengthen enforcement against illegal immigration and violent crime by illegal aliens" and to improve "service in the area of lawful immigration."

A Justice Department official said the expansion will affect "everything INS does." He said the purpose is "to add integrity to the whole system."

U.S. TO ADD 300 AGENTS ALONG MEXICAN BORDER;IMMIGRATION: A MAJOR INS EXPANSION WILL DEAL WITH A SURGE IN ILLEGAL ENTRIES, DELAYS IN ASSISTING NEWCOMERS.

Major parts of the expansion will be financed with money from INS fines, from criminal asset forfeiture funds and through the closer scrutiny of immigration user and examination fee accounts to make sure the money there is used to pay for services, officials said.

The Bush Administration's fiscal 1993 budget would boost INS spending by \$120.8 million, to \$1.07 billion, and include 200 more Border Patrol agents. But the expansion plans to be announced today would be put into effect this year and be in addition to requests made in next year's budget.

The Justice Department will be required to ask Congress to reprogram INS funds to pay for part of the expansion, but it will not seek more money from legislators, department officials said. The INS is part of the Justice Department.

Funding the expansion without seeking additional money is in line with Barr's effort to comb the budget for ways to shift funds that are no longer needed into higher-priority areas. Previous moves have included reassigning FBI counterspy agents to violent-crime and health-fraud squads, and moving Drug Enforcement Administration agents from administrative posts to street assignments.

The new expansion program also will involve reissuing counterfeit-resistant green cards for immigrant workers and redesigned employment authorization documents, and stepping up enforcement of sanctions against employers who knowingly hire illegal immigrants.

Last year, the INS attempted to toughen enforcement of the employer sanctions, but critics said the effort had limited impact because of the proliferation of fraudulent documents. The new green cards and authorization papers will be an attempt to combat that problem, officials said.

Fifty of the new investigators will be assigned to enforcement of employer sanctions. The other 150 will be sent to new INS violent-gang task forces or assigned to existing task forces to pursue law-breaking immigrants. Cities that will receive the largest number of these investigators include Los Angeles, San Diego, Phoenix, Seattle, Houston, Dallas, Washington, Philadelphia, Chicago, Miami, Boston and Albuquerque, N.M., officials said.

The National Criminal Alien Tracking Center will include computerized records available 24 hours a day to assist state and local law enforcement officials, as well as INS agents, in identifying and tracking suspects.

In the year ended last Sept. 30, the number of illegal immigrants arrested throughout the nation reached its highest point in four years, topping 1.1 million. This was still below the record 1.6 million arrested in 1986, just before enactment of the sweeping immigration reforms intended to curtail illegal immigration by imposing fines on employers who knowingly hire undocumented workers.

The majority of arrests last year occurred along the U.S.-Mexico border, where slightly fewer than 1.1 million illegal immigrants were apprehended. Of those, about half were caught in the 66 miles covered by the Border Patrol's San Diego sector.

In December, apprehensions along the entire border -- from the Pacific Ocean to Brownsville, Tex. -- climbed to 64,485 from 62,411 in December, 1990, an INS spokesman said. There was an even greater increase in January, particularly in the San Diego sector, which accounts for nearly half of all apprehensions.

A Justice Department official cautioned against concluding that the increased number of apprehensions signaled a like increase in the number of attempts to cross the border illegally. He noted that fencing had been constructed along seven miles of the San Diego sector and that Border Patrol enforcement already had been intensified.

Justice Department officials emphasized Saturday that the new expansion has been in the planning stages since soon after Barr was confirmed last year as attorney general.

U.S. TO ADD 300 AGENTS ALONG MEXICAN BORDER;IMMIGRATION: A MAJOR INS EXPANSION WILL DEAL WITH A SURGE IN ILLEGAL ENTRIES, DELAYS IN ASSISTING NEWCOMERS.

The immigration fee accounts that will help fund the expansion include charges that international travelers pay when entering the country through airports and seaports, while the examination fees are charged to those applying for refugee status, business visas and other applications, a Justice Department official explained.

Audits of those accounts indicated that they had balances, but showed that some of the immigration and examination costs actually were being covered by other INS resources, the official said. He added that Congress intended those funds to be self-sustaining.

Closer monitoring of those accounts is expected to yield \$9.3 million this fiscal year, and an even greater amount in fiscal 1993, an official estimated.

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REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE

ATTORNEY GENERAL'S 40TH ANNUAL AWARDS CEREMONY

THE GREAT HALL
DEPARTMENT OF JUSTICE
JANUARY 31, 1992

THANK YOU, GEORGE. GOOD AFTERNOON, HONORED GUESTS, FAMILIES AND FRIENDS. I AM DELIGHTED TO BE PART OF THIS PROGRAM. TODAY'S CEREMONY IS AN OPPORTUNITY FOR US TO EXPRESS OUR DEEP APPRECIATION FOR THE EXEMPLARY WORK DONE BY SO MANY OF THE JUSTICE DEPARTMENT EMPLOYEES, AND PERSONS FROM OUTSIDE THE DEPARTMENT.

MOST OF THE YEAR, MANY DEPARTMENT EMPLOYEES ARE UNSUNG HEROES IN THE FIGHT FOR JUSTICE ALL ACROSS AMERICA. TODAY, WE ARE PLEASED TO BE ABLE TO PUBLICLY EXPRESS OUR GRATITUDE FOR THE DEDICATION AND PROFESSIONALISM OF TODAY'S HONOREES.

THEIR OUTSTANDING COMMITMENT TO DUTY COMMANDS OUR RESPECT AND ACKNOWLEDGEMENT, AND ALSO OUR GRATITUDE. I BELIEVE THAT THERE IS NO FINER GROUP OF GOVERNMENT EMPLOYEES THAN THOSE THAT WORK FOR THE DEPARTMENT OF JUSTICE.

I HAVE ALWAYS MAINTAINED THAT OUR GREATEST RESOURCES IN OUR FIGHT FOR JUSTICE ARE OUR HUMAN RESOURCES -- THE THOUSANDS OF MEN AND WOMEN WHO HAVE DEDICATED THEIR CAREERS, OFTEN AT GREAT PERSONAL SACRIFICE, TO WORKING FOR JUSTICE IN AMERICA. OUR FUNDAMENTAL TASKS -- THE IDENTIFICATION AND PUNISHMENT OF LAWBREAKERS AND THE DEFENSE OF THE UNITED STATES IN COURTS OF LAW

-- WILL ALWAYS BE DAUNTING AND DIFFICULT, BUT WITH ENHANCED RESOURCES AND THE SUPERB PERSONNEL WE HAVE IN THE JUSTICE DEPARTMENT, I AM CONVINCED WE CAN SUCCEED.

I MENTIONED THE SACRIFICES YOU AND YOUR COLLEAGUES ROUTINELY ENDURE IN THE PERFORMANCE OF YOUR DUTIES. I WOULD BE REMISS IF I DIDN'T ALSO MENTION THE SACRIFICE OF YOUR FAMILIES. THE HARDSHIPS THEY ENDURE -- THE LONG SEPARATIONS, THE EVERPRESENT AWARENESS OF THE RISKS YOU BRAVELY UNDERTAKE -- ARE TESTAMENT TO THEIR OWN COMMITMENT TO A SOCIETY WHERE THE LAW WILL BE ENFORCED AND THE CITIZENRY WILL BE PROTECTED. WHEN WE HONOR YOU, WE ARE ALSO HONORING THEM. THEY, TOO, DESERVE OUR RESPECT AND GRATITUDE.

AND NOW, IT IS MY PLEASURE TO PRESENT THE ATTORNEY GENERAL'S EXCEPTIONAL SERVICE AWARD.

DRUG PROGRAM RECEIVES PRAISE

The Commercial Appeal (Memphis)

January 31, 1992, Friday,, FINAL EDITION

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Length: 171 words

Byline: John Beifuss

Body

U.S. Atty. Gen. William Barr praised the "About Face" program for young drug offenders during a visit Thursday to the bootcamp-style rehabilitation center at the Memphis Naval Air Station at Millington.

Barr, who also spoke to about 150 politicians and neighborhood leaders at St. John's Episcopal Church on South Greer, said the program - which uses a military base for a community purpose - could become a national model.

"We have to focus rehabilitation efforts on youthful offenders," he said.

The About Face program, which was conceived by Youth Service in Memphis Inc. in cooperation with the Navy, uses military-style discipline to teach young people commitment and responsibility.

Youths with multiple drug offenses sentenced to the program spend eight weeks at the Naval Air Station, followed by another six months of followup visits from counselors. About 150 people have graduated from the program since it began last February, said Rev. Donald E. Mowery, Youth Service executive director.

Graphic

William Barr

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January 16, 1992

Section: NEWS

U.S. bid to lift prison restrictions praised in Texas

THE

HOUSTON

HOUSTON -- U.S. Attorney General William Barr's plan to help states escape from court-imposed limits on prison populations and lock up more violent criminals drew praise Wednesday from officials struggling with prison overcrowding.

In a significant policy reversal, Mr. Barr announced Tuesday that the U.S. Justice Department would help states that want to lift consent decrees limiting inmate populations.

Texas is one of many states that could benefit from the policy shift because it is under a federal court order to limit its state prison population to 95 percent of capacity.

"I made it clear that the general states should be allowed to run their own prison systems. Judges should not be running prison systems," Mr. Barr said Wednesday during a speech to the Law Enforcement Coordinating Committee in Houston.

"Many of the conditions imposed on states during the 1980s, including prison caps, just went far beyond what was constitutional. . . . I'm particularly concerned about the matter of prison caps," he said.

"The Department of Justice will generally be supportive of states' who are trying to regain control of their prison systems," he said.

The ruling regarding Texas' prison population has forced officials to implement a quota system limiting the number of new inmates accepted each week from county jails across the state.

But that quota system has created backlogs at several county jails, most notably at the Harris County Jail.

Harris County Sheriff Johnny Klevenhagen, who attended Mr. Barr's speech, said he believed that the Justice Department's plan would eventually help the jail's overcrowding problem.

"I am very, very encouraged that they are looking and that they are showing where the problem lies . . . (But) I think the war is just getting started," Sheriff Klevenhagen said.

Texas Attorney General Dan Morales also praised Mr. Barr's plan.

"For far too long and in far too many instances, the federal courts have been running the state's business. It is time for the state to be back in the driver's seat of its penal institutions,' Mr. Morales said in a statement issued in Austin.

Mr. Morales maintained that the prison system in recent years has met constitutional requirements.

Although the state already plans to increase its prison capacity by an additional 25,000 beds over the next several years, eliminating the prison cap would also add about 3,000 more beds, he noted.

Mr. Barr, who also visited a Harris County boot camp for young, first-time offenders and a state prison northeast of Houston on Wednesday, said the only way to fight violent crime was to keep offenders incarcerated.

He criticized Texas' decision in the 1980s to implement early-release programs rather than build more prisons to deal with crime. Mr. Barr said the practice only resulted in an increase in the state's crime rate.

"The choice is clear -- more prisons or more crime,' Mr. Barr said.

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---- **Index References** ----

News Subject: (Legal (1LE33); Judicial (1JU36); Prisons (1PR87))

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NewsRoom

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January 16, 1992

Section: A

Policy reverses: Feds to mess less with Texas jails

RUTH PILLER, KATHY FAIR, JIM ZOOK

Chronicle reporter Jim Zook and The Associated Press contributed to this story.

Texas' long-running prison crisis may be near a turning point under a new federal policy that says states should be allowed to run their penitentiaries without court interference.

U.S. Attorney General William Barr, in Houston to tour the Harris County Boot Camp and a state prison unit Wednesday, said federal judges had gone too far in trying to correct unconstitutional conditions.

"Generally, I think the people of Texas should be able to run their own prison system and make their own decisions," he said. "I don't think the court should be running the prison system.

"The Department of Justice supports the people of Texas and the leaders of Texas in trying to get the prison system back."

In a policy change announced Tuesday, Barr said the Justice Department would help states such as Texas remove court-imposed caps on prison populations not required by the Constitution or federal law.

"The business of running prisons belongs to the appropriate state officials, not to federal judges and special masters," Barr said. "The fact that a court finds a constitutional violation does not justify court supervision of prisons."

Under a prisoner lawsuit brought in 1972, U.S. District Judge William Wayne Justice of Tyler found unconstitutional prison conditions amounting to cruel and unusual punishment, and has since overseen massive reforms.

Among other steps, the state agreed to cap its prison population at 95 percent of capacity. That limitation has resulted in the early release of thousands of criminals, the backlog of thousands of others in county jails and one of the most ambitious and expensive prison construction programs in the nation.

Some criminal justice experts said the new Justice Department policy will give Texas more clout when it goes back to the bargaining table seeking an end to the restrictions.

But William Bennett Turner, a San Francisco attorney who represents inmates in the Texas case, said he believes the government's new posture will have no impact on the case.

"The population caps in this case were not imposed by a court on an unwilling state -- they were agreed to by the state," Turner said.

"Also, the Justice Department has been almost completely absent from this case for five or six years. If they came in now and tried to tell the judge to lift the caps, I don't think it would be very well received."

However, Texas Attorney General Dan Morales heralded Barr's announcement and predicted that "the state is on the fast track toward ending two decades of litigation."

Parties in the long-standing prison lawsuit are scheduled to meet Feb. 6 in San Francisco to seek a final agreement to phasing out federal court intervention in the operation of Texas prisons.

Justice has scheduled a hearing July 6 to consider the state's motion to terminate the lawsuit.

Prison capacity is one of the sticking points in the negotiations; one source said both sides have already agreed to raising the population cap to about 98 percent of capacity, or immediately adding 2,300 beds not now in use.

Morales said a complete removal of the population cap would free 3,000 beds for use.

The state also is about to embark on a \$1.2 billion construction program that will add 25,000 beds during the next five years.

"States should not be asked to operate under judicial decrees that in many instances were based on discredited legal theories and that impose unduly burdensome restrictions," Barr said in announcing the government's new stance Tuesday. "We must allow state officials to exercise their lawful discretion."

Barr said that courts, in remedying violations of the Constitution, are not free to order conditions improved beyond the basic constitutional necessities.

But Selden Hale, chairman of the Texas Board of Criminal Justice, predicted that the Justice Department's about-face could send the state back into a long, expensive court battle if federal officials and plaintiffs' lawyers lock horns over the final settlement.

"The lawsuit, for all practical purposes, is already over," said Hale, who is part of the state's negotiating team. "And from my experience, Texas does not have a good record at winning lawsuits."

He said it would be "un-Texan" for the prison system to go back on its promise to limit population in the system.

Meanwhile, the U.S. Supreme Court took a step in the same direction, which could enable prison officials to revise court settlements regarding inmates' living conditions.

The justices, by a 6-2 vote, told a federal judge to restudy an effort by Suffolk County Jail officials in Massachusetts to modify a 1979 court consent decree in which they agreed not to put two inmates in one cell.

After a new jail was built, officials contended there was no longer a need to enforce the old agreement. Double-celling was needed because of a rapidly rising population, they said.

A federal judge ruled the decree could not be modified unless "new and unforeseen conditions" exist and the change would not jeopardize the constitutional rights the consent decree was intended to protect.

But, writing for the high court, Justice Byron White said that standard was too stringent to use in "institutional reform litigation."

A modification may be warranted, the court said, when changed factual conditions make compliance with the decree substantially more onerous or unworkable.

Barr said the decision tells courts "to be more flexible in modifying consent decrees." Prisoners' treatment and conditions would still have to be constitutional, however.

Other lawmakers and law-enforcement officials, some of whom toured the county boot camp with Barr, also praised the new federal policy and the Supreme Court decision. "I think the Supreme Court is simply echoing what we've been saying," Harris County Sheriff Johnny Klevenhagen said. "It's a great decision, something we have got to have."

He said the policy could enable thousands of felons in the county jail to be moved to a state prison, freeing more jail space locally.

--- **Index References** ---

News Subject: (Legal (1LE33); Judicial (1JU36); Prisons (1PR87); Police (1PO98); Government Litigation (1GO18); Economics & Trade (1EC26))

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NewsRoom

REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE

CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION
1992 WINTER CONFERENCE

THE HYATT REGENCY SUITES
PALM SPRINGS, CALIFORNIA
JANUARY 14, 1992

TODAY, I WANT TO TALK TO YOU ABOUT REDUCING VIOLENT CRIME IN THIS COUNTRY.

IN MY VIEW, THERE IS NO GREAT MYSTERY AS TO HOW TO GO ABOUT MAKING SERIOUS REDUCTIONS IN VIOLENT CRIME.

STUDY AFTER STUDY SHOWS THAT THERE IS A SMALL SEGMENT OF OUR POPULATION WHO ARE REPEAT VIOLENT OFFENDERS AND WHO COMMIT MUCH, IF NOT MOST, OF THE PREDATORY VIOLENT CRIME IN OUR SOCIETY.

YOU KNOW THE PROFILE. THESE OFFENDERS TYPICALLY START COMMITTING CRIMES WHEN THEY ARE JUVENILES AND KEEP ON COMMITTING CRIMES.

WHEN ARRESTED AND RELEASED BEFORE TRIAL, THEY GO RIGHT ON COMMITTING CRIMES.

WHEN GIVEN PROBATION, INSTEAD OF A PRISON TERM, THEY GO RIGHT ON COMMITTING CRIMES.

WHEN LET OUT OF PRISON ON PAROLE OR EARLY RELEASE, THEY CONTINUE TO COMMIT CRIMES.

IN FACT, THE ONLY TIME WE ARE SURE THESE CHRONIC OFFENDERS ARE NOT COMMITTING CRIMES IS WHEN THEY ARE LOCKED UP IN PRISON.

AND THAT IS THE ANSWER. THE EXPERIENCE OF THE LAST 30 YEARS DEMONSTRATES CLEARLY THAT THE ONLY WAY TO REDUCE VIOLENT CRIME IS TO INCARCERATE THESE CHRONIC VIOLENT OFFENDERS, GIVE THEM LONG PRISON SENTENCES, AND KEEP THEM LOCKED UP IN PRISON UNTIL THEY HAVE SERVED THEIR FULL SENTENCE.

A 1980 STUDY OF 240 OFFENDERS FOUND THIS SMALL GROUP COMMITTED OVER 500,000 CRIMES OVER AN 11 YEAR PERIOD -- AN AVERAGE FOR EACH OF 190 CRIMES A YEAR.

IN 1982 A RAND STUDY FOUND THAT, WHILE OUT ON THE STREET, THE AVERAGE STATE INMATE COMMITTED BETWEEN 187 AND 287 CRIMES PER YEAR, EXCLUDING DRUG DEALS.

A RECENT ATF STUDY OF A GROUP OF CAREER CRIMINALS SERVING TIME FOR FIREARMS OFFENSES FOUND THAT THESE INMATES AVERAGED 160 CRIMES A YEAR PRIOR TO INCARCERATION.

WE CAN DEBATE AD NAUSEUM ABOUT THE "ROOT CAUSES" OF CRIME. WE CAN DEBATE THE EXTENT TO WHICH PRISONS CAN REHABILITATE CRIMINALS. WE CAN DEBATE HOW MUCH PRISONS DETER OFFENDERS.

BUT ONE THING CANNOT BE DEBATED. IMPRISONMENT INCAPACITATES THE VIOLENT CRIMINAL. FOR EVERY YEAR THE OFFENDER

SITS IN HIS PRISON CELL, THERE ARE SCORES, PERHAPS HUNDREDS, OF FEWER VIOLENT CRIMES COMMITTED ON THE STREETS.

A BRIEF SURVEY OF OUR RECENT EXPERIENCE SHOWS CLEARLY THAT THE POLICY OF INCAPACITATING CRIMINALS THROUGH INCARCERATION WORKS.

THE 1960'S AND 1970'S WERE THE HEY-DAY OF PERMISSIVENESS. CRIMINALS WERE VIEWED AS SOCIETY'S VICTIMS, RATHER THAN ITS VICTIMIZERS. THE PREVAILING ATTITUDE WAS THAT THE ANSWER TO CRIME WAS NOT IMPRISONMENT BUT MASSIVE SOCIAL SPENDING TO CURE THE PERCEIVED "ROOT CAUSES" OF CRIME.

THIS PERMISSIVENESS RESULTED -- DURING THE 1960'S AND EARLY 1970'S -- IN DECREASING RATES OF INCARCERATION.

IN 1960 ABOUT 30% OF THOSE ARRESTED FOR A VIOLENT CRIME WERE SENT TO PRISON. BY THE END OF THE DECADE THIS HAD FALLEN TO ONLY 17%.

THE NATION'S PRISON POPULATION ACTUALLY DECLINED BY 8% DURING THE DECADE -- FROM 213,000 TO 197,000.

AND WHAT WAS THE IMPACT OF THIS? TO PUT IT SIMPLY, AS INCARCERATION RATES DROPPED, VIOLENT CRIME IN THE 60'S AND 70'S SKYROCKETED.

IN THE 1960'S THE VIOLENT CRIME RATE MORE THAN DOUBLED, RISING FROM 160 REPORTED VIOLENT CRIMES PER 100,000 POPULATION TO 363 PER 100,000.

BY THE END OF THE 1970'S THE VIOLENT CRIME RATE HAD REACHED 597 PER 100,000 -- CLOSE TO QUADRUPLING IN JUST TWO DECADES.

1980 WAS A WATERSHED. THE REACTION AGAINST THESE EXCESSES HAD TAKEN HOLD. WE REAFFIRMED THE COMMON SENSE NOTION THAT THE ONLY WAY TO PROTECT THE PUBLIC IS TO INCAPACITATE HABITUAL CRIMINALS BY LOCKING THEM UP.

AND THROUGH LEGISLATIVE REFORMS, AT THE FEDERAL LEVEL AND IN MANY STATES, WE STARTED TO GET THE TOOLS NECESSARY TO GET TOUGH. BAIL REFORM ALLOWED EFFECTIVE PRE-TRIAL DETENTION AND SENTENCING REFORM GUARANTEED SURER AND STRONGER PENALTIES. PERHAPS MOST IMPORTANTLY, THE FEDERAL GOVERNMENT AND MANY STATES MADE THE NECESSARY INVESTMENT TO BUILD NEW PRISON SPACE.

BECAUSE OF THESE TOUGHER POLICIES, INCARCERATION RATES HAVE RISEN SUBSTANTIALLY IN THE 1980'S. WE HAVE GONE FROM AN INCARCERATION RATE OF 134 PER 100,000 IN 1980 TO A RATE OF 292 PER 100,000 IN 1990.

FROM 1980 TO 1990 THE PRISON POPULATION HAS GROWN FROM 305,000 TO ABOUT 775,000.

THESE POLICIES HAVE HAD A REAL IMPACT ON VIOLENT CRIME. THE LID HAS BEEN CLAMPED DOWN ON THE SPIRALING CRIME RATES OF THE 60'S AND 70'S.

DURING THE 1980'S THE VIOLENT CRIME RATE HAS LEVELLED OFF AND HELD RELATIVELY STEADY.

THE FBI'S UNIFORM CRIME REPORT -- WHICH MEASURES REPORTED CRIME -- SHOWS THIS LEVELLING OFF DRAMATICALLY.

CONSIDER THAT IN THE 60'S THE MURDER RATE CLIMBED 55%; IN THE 70'S IT ROSE 29%; BUT IN THE 1980'S IT ACTUALLY DROPPED BY 8%.

OR THE RATE OF AGGRAVATED ASSAULT AND ROBBERY, WHICH IN THE 60'S INCREASED BY 187%, BUT WHICH IN THE 80'S INCREASED BY ONLY 2%.

THIS SAME DOWNWARD TREND IS EVEN MORE EVIDENT IN THE BUREAU OF JUSTICE STATISTICS' NATIONAL CRIME VICTIMIZATION SURVEY -- A STUDY OF BOTH REPORTED AND UNREPORTED CRIME BASED ON A BROAD SURVEY OF SAMPLE HOUSEHOLDS.

THIS SURVEY SHOWS AN OVERALL 9.2% DECLINE IN VIOLENT CRIME SINCE THE FIRST SURVEY IN 1973. FROM 1980 TO 1989, RAPE DROPPED 29%. AGGRAVATED ASSAULT DROPPED 11%. ROBBERY FELL 17%.

THIS NATIONAL EXPERIENCE HAS BEEN REFLECTED IN CALIFORNIA. SINCE 1982 CALIFORNIANS HAVE APPROVED \$3.7 BILLION IN BONDS TO BUILD PRISONS AND HAVE CARRIED OUT SUBSTANTIAL REFORMS OF THE STATE'S CRIMINAL JUSTICE SYSTEM.

FROM 1980 THROUGH 1990, CALIFORNIA'S PRISON POPULATION MORE THAN QUADRUPLED FROM 22,600 TO 98,000.

AS A RESULT, BY THE 1990'S, CALIFORNIA'S MURDER, RAPE, AND BURGLARY RATES DROPPED 24 TO 37% FROM THEIR 1980 TO 1982 PEAKS.

OUR EXPERIENCE IS CLEAR. WHILE THE VIOLENT CRIME RATE IS STILL UNACCEPTABLY HIGH, WE HAVE AT LEAST SEEN AN END TO THE DRAMATIC INCREASES IN VIOLENT CRIME WHICH MARKED THE PREVIOUS TWO DECADES. THIS IS THE ACHIEVEMENT OF THE 1980'S.

WHAT MAKES THIS ACHIEVEMENT TRULY REMARKABLE IS THAT IT OCCURRED DURING THE DRUG EPIDEMIC WHICH HAS SPAWNED ITS OWN EPIDEMIC OF VIOLENCE.

AS DISTURBING AS VIOLENT CRIME LEVELS ARE TODAY, IT IS

HORRIFYING TO IMAGINE WHERE WE WOULD BE NOW IF NOT FOR THE TOUGH INCARCERATION POLICIES WE PURSUED IN THE 1980'S.

IN SUM, AS ONE CRIMINAL JUSTICE SCHOLAR, EUGENE METHVIN, HAS RECENTLY WRITTEN: "ONE OF AMERICA'S BEST KEPT SECRETS IS THAT OUR HUGE INVESTMENT IN BUILDING PRISONS [IN THE 1980'S] HAS PRODUCED A TREMENDOUS PAYOFF; AMERICANS ARE SAFER AND. . . CRIME HAS FALLEN STEADILY."

CHALLENGE OF THE 1990'S

BUT THAT BRINGS US TO THE AGENDA OF THE 1990'S.

WILL WE ALLOW THE RETURN OF SPIRALING CRIME RATES? WILL WE BE CONTENT MERELY TO HOLD VIOLENT CRIME IN CHECK AT ITS ALREADY HIGH LEVELS? OR WILL WE MAKE REAL PROGRESS IN ACTUALLY REDUCING THE LEVEL OF VIOLENT CRIME?

IN MY VIEW, THE CHOICE IS CLEAR. IF WE WANT TO REDUCE VIOLENT CRIME, WE MUST PRESS AHEAD UNRELENTINGLY WITH THE POLICY OF INCAPACITATING VIOLENT CRIMINALS THROUGH INCARCERATION.

CERTAINLY IN OUR LIFETIMES AND THE LIFETIMES OF OUR CHILDREN, A TOUGH INCARCERATION POLICY IS INDISPENSABLE IF WE ARE TO SUCCEED IN REDUCING CRIME.

PURSuing THIS POLICY WILL REQUIRE THREE THINGS:

FIRST, WE MUST CONTINUE THE SUBSTANTIAL INFUSION OF RESOURCES INTO LAW ENFORCEMENT, PARTICULARLY FOR BUILDING MORE PRISONS. WE SIMPLY CANNOT GET VIOLENT OFFENDERS OFF THE STREET WITHOUT MORE PRISON SPACE.

SECOND, WE MUST CONTINUE TO PRESS FOR CRITICALLY NEEDED REFORM OF OUR CRIMINAL JUSTICE SYSTEM -- REFORMS THAT MAKE PUNISHMENT MORE SWIFT, MORE CERTAIN, AND MORE SEVERE.

THIRD, WE MUST BE AS AGGRESSIVE AS POSSIBLE IN USING EXISTING LAWS TO TARGET, CONVICT AND INCARCERATE FOR A LONG TIME THE MOST HARD CORE VIOLENT OFFENDERS.

AS WE ENTER THE 1990'S, WE ARE FORTUNATE AT THE FEDERAL LEVEL TO HAVE A PRESIDENT WHO IS SO FORCEFULLY PROSECUTING THE WAR AGAINST VIOLENT CRIME.

AS FOR FISCAL RESOURCES, PRESIDENT BUSH'S COMMITMENT TO LAW ENFORCEMENT IS REMARKABLE IN THESE DAYS OF BUDGETARY CONSTRAINT.

IN THE THREE YEARS, PRESIDENT BUSH HAS ASKED CONGRESS TO INCREASE THE DEPARTMENT OF JUSTICE'S BUDGET BY 60%.

SO FAR DURING HIS TERM, PRESIDENT BUSH HAS ALREADY FUNDED A 118% INCREASE IN FEDERAL PRISON CAPACITY -- A MASSIVE EXPANSION PROGRAM.

HE HAS ALSO SOUGHT AND OBTAINED SUBSTANTIAL INCREASES IN PROSECUTORS, FBI AND DEA AGENTS, AND MORE ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT.

HE HAS INCREASED RESOURCES FOR THE DRUG WAR FROM \$4.5 BILLION IN 1988 TO \$10.5 BILLION IN 1991.

WITH REGARD TO CRIMINAL JUSTICE REFORM, PRESIDENT BUSH HAS BEEN PUSHING CONGRESS HARD TO ADOPT THE TOUGH ANTI-CRIME PROPOSALS CONTAINED IN HIS COMPREHENSIVE VIOLENT CRIME CONTROL BILL.

THIS INCLUDES A COMPREHENSIVE FEDERAL DEATH PENALTY; REFORM OF HABEAS CORPUS TO END ABUSIVE DELAYS IN CARRYING OUT CRIMINAL SENTENCES; REFORM OF THE JUDGE-MADE EXCLUSIONARY RULE TO ALLOW ALL EVIDENCE OBTAINED IN GOOD FAITH TO BE RECEIVED AS EVIDENCE IN CRIMINAL TRIALS; AND TOUGHER MANDATORY SENTENCES FOR GUN OFFENDERS THAT WILL HELP GET MANY OF THEM OFF THE STREETS AND INTO PRISON.

FINALLY, AT THE FEDERAL LEVEL, WE ARE -- UNDER PRESIDENT BUSH'S LEADERSHIP -- SEEKING TO SUPPORT AND ENHANCE THE EFFORTS

OF STATE AND LOCAL GOVERNMENT IN COMBATING VIOLENT CRIME BY DEPLOYING OUR FEDERAL RESOURCES AND TOOLS IN A WAY THAT CAN HAVE THE GREATEST IMPACT.

WITH REGARD TO VIOLENT STREET GANGS, WE CAN USE OUR RICO STATUTE AND TOUGH FEDERAL FIREARM AND DRUG LAWS TO ASSIST IN DISMANTLING THESE CRIMINAL ORGANIZATIONS. LAST WEEK I DEPLOYED 300 ADDITIONAL FBI AGENTS TO 39 CITIES FOR THIS PURPOSE.

IN RESPONSE TO GROWING FIREARMS VIOLENCE, WE ARE TARGETING HABITUAL OFFENDERS WHO USE FIREARMS, SEIZING THEIR WEAPONS, AND PUTTING THESE REPEAT OFFENDERS IN PRISON UNDER STIFF FEDERAL MANDATORY SENTENCES.

UNDER OUR NEW "OPERATION TRIGGERLOCK", WE HAVE CHARGED ALMOST 4,000 GUN-CARRYING CRIMINALS IN 8 MONTHS.

"TRIGGERLOCK" IS A RUDE AWAKENING FOR CAREER CRIMINALS. REPEAT OFFENDERS WHO WOULD OTHERWISE BE SERVING ONLY 18 MONTHS IN THE STATE SYSTEM, ARE NOW GETTING 15-, 20-, AND 25-YEAR SENTENCES WITHOUT PAROLE IN THE FEDERAL SYSTEM.

THE CHALLENGE FOR THE STATES

BUT AT THIS POINT I MUST STOP AND MAKE NOTE OF THE INHERENT LIMITATIONS TO OUR FEDERAL ATTACK ON VIOLENT CRIME.

IT IS STATE AND LOCAL LAW ENFORCEMENT THAT IS ON THE FRONTLINE OF THE WAR AGAINST CRIME. OVER 95% OF VIOLENT CRIME IN THIS NATION IS INVESTIGATED, PROSECUTED AND PUNISHED AT THE STATE AND LOCAL LEVEL.

COMBATTING VIOLENT CRIME IS, AND MUST REMAIN, PRINCIPALLY A STATE AND LOCAL RESPONSIBILITY.

IN MY VIEW, AT THE STATE LEVEL, THE MOST CRITICAL OBSTACLE WE FACE TO REDUCING VIOLENT CRIME IS THE SHORTAGE OF AVAILABLE PRISON SPACE.

ACROSS THE COUNTRY, THE POLICE AND THE PROSECUTORS ARE DOING A SUPERB JOB. THEY ARE CAPTURING AND CONVICTING SERIOUS CRIMINAL OFFENDERS. BUT, IN MANY JURISDICTIONS, THEY JUST DON'T HAVE THE ROOM IN THEIR JAILS AND PRISONS TO KEEP THEM OFF THE STREETS.

FACED WITH CURRENT SHORTAGES IN AVAILABLE PRISON BEDSPACE -- SOMETIMES DUE TO COURT-IMPOSED POPULATION CAPS -- STATES HAVE ONLY TWO CHOICES: EITHER CREATE MORE BEDSPACES OR ADOPT WHAT HAS BEEN CALLED THE 'TURN-'EM-LOOSE-FASTER' APPROACH THROUGH PROBATION, PAROLE, SHORTER SENTENCES, AND EARLY RELEASE,

THAT IS REALLY NO CHOICE AT ALL.

THE EVIDENCE IS CLEAR THAT REVOLVING DOOR JUSTICE DOESN'T WORK. RELEASING VIOLENT OFFENDERS BACK ON THE STREETS SIMPLY MEANS MORE CRIME.

-- A RECENT COMPREHENSIVE BUREAU OF JUSTICE STATISTICS' STUDY FOUND THAT 43% OF STATE PROBATIONERS WERE ARRESTED AT LEAST ONCE ON A FELONY CHARGE WITHIN 3 YEARS. THESE PROBATIONERS UNDOUBTEDLY COMMITTED MANY OTHER UNSOLVED OR UNREPORTED CRIMES IN ADDITION TO THOSE FOR WHICH THEY WERE ARRESTED.

-- ANOTHER BJS STUDY OF YOUNG PAROLEES IN 22 STATES FOUND THAT 69% WERE REARRESTED FOR A SERIOUS CRIME WITHIN 6 YEARS.

-- FURTHER EVIDENCE OF RECIDIVISM COMES FROM A BJS STUDY OF PERSONS RELEASED FROM PRISON IN 11 STATES IN 1983. THIS STUDY FOUND THAT 62.5% OF THOSE RELEASED WERE ARRESTED FOR A SERIOUS CRIME WITHIN 3 YEARS.

THE TRAGIC REALITY OF ALL THESE STATISTICS IS THAT HUNDREDS OF THOUSANDS, INDEED MILLIONS, OF CRIMES COMMITTED BY THESE DEFENDANTS AFTER THEIR PREMATURE RELEASE WERE WHOLLY AVOIDABLE. HAD THE DEFENDANTS SERVED THEIR FULL SENTENCE, MOST OF THIS CRIME WOULD NEVER HAVE HAPPENED.

TEXAS LEARNED THIS THE HARD WAY. TO KEEP PRISON COSTS DOWN, IN 1983 THE TEXAS LEGISLATURE ADOPTED THE TURN-EM-LOOSE FASTER

APPROACH. THE AVERAGE TERM SERVED DROPPED FROM 55% OF SENTENCE TO LESS THAN 15%, AND THE NUMBER OF PAROLEES INCREASED BY 21 TIMES. AS A RESULT, FROM 1980 TO 1989, WHILE THE CRIME RATE DROPPED NATIONALLY BY 4%, TEXAS' CRIME RATE JUMPED BY 29%, MAKING TEXAS THE SECOND-HIGHEST STATE IN CRIME.

THE CHOICE IS CLEAR: MORE PRISON SPACE, OR MORE CRIME!

SOME MIGHT ARGUE THAT WE CANNOT AFFORD TO BUILD MORE PRISONS; I SAY WE CANNOT AFFORD NOT TO BUILD MORE PRISONS.

WHILE SOME FOCUS ON THE COST OF BUILDING AND MAINTAINING PRISON SPACE; IT IS TIME WE FOCUSED MORE ON THE COSTS OF FAILING TO PROVIDE PRISON SPACE.

THE BJS ESTIMATES THAT THE TOTAL DIRECT COSTS OF CRIME SUCH AS ECONOMIC LOSS TO VICTIMS IS \$18.75 BILLION ANNUALLY. WHEN INDIRECT COSTS SUCH AS JUSTICE SYSTEM COSTS AND VICTIM PAIN AND SUFFERING ARE INCLUDED, THE TOTAL RISES TO \$92 BILLION A YEAR. AND NEITHER OF THESE ESTIMATES ACCOUNT FOR MACRO-LOSSES TO SOCIETY SUCH AS LOST SALES, LOST JOBS AND LOST REVENUES.

THE ATF STUDY OF ARMED CAREER CRIMINALS ESTIMATED THAT THEIR CRIMES COST SOCIETY \$386,000 EACH FOR EVERY YEAR THEY WERE ON THE STREETS, WHEREAS IT COSTS ONLY \$20,000 A YEAR TO INCARCERATE THEM.

THE CONCLUSION IS INESCAPABLE. SPENDING MONEY ON PRISONS IS NOT ONLY THE MORALLY RIGHT THING TO DO; IT IS THE ECONOMICALLY RIGHT THING TO DO.

WHILE SPENDING MONEY ON PRISONS INVOLVES A SACRIFICE IN THESE FISCALLY TIGHT TIMES, STATES MUST MAKE THIS INVESTMENT IF WE ARE GOING TO REDUCE VIOLENT CRIME. AND, INDEED, TODAY, ONLY 2.2% OF STATE AND LOCAL SPENDING GOES TO CORRECTIONS -- FAR FROM EXCESSIVE FOR THIS CRITICAL DUTY OF GOVERNMENT.

IN CALLING FOR MORE PRISON SPACE, I RECOGNIZE THAT THE ABILITY OF STATES TO MANAGE THEIR OWN PRISONS HAS BEEN HAMPERED BY THE INVOLVEMENT OF FEDERAL COURTS IN THE DAY-TO-DAY OPERATION OF STATE FACILITIES. THE 70'S AND 80'S SAW A FLOOD OF LITIGATION IN THE FEDERAL COURTS BY STATE PRISONERS CHALLENGING PRISON CONDITIONS AS "CRUEL AND UNUSUAL PUNISHMENT."

DURING THIS PERIOD, SOME LOWER COURTS MISTAKENLY APPLIED A VAGUE "TOTALITY OF THE CIRCUMSTANCES" OR "OVERALL CONDITIONS" STANDARD TO FIND THAT STATES WERE IN VIOLATION OF THE EIGHTH AMENDMENT.

MANY COURTS WENT FAR BEYOND WHAT THE CONSTITUTION REQUIRES IN REMEDYING PURPORTED EIGHTH AMENDMENT VIOLATIONS -- SPECIFYING THE PARTICULARS OF PRISONERS' DIETS, EXERCISE, VISITATION RIGHTS

AND HEALTH CARE. MOST BURDENSOME OF ALL, THESE DECREES IMPOSED LIMITATIONS OR CAPS ON THE POPULATION OF STATE PRISONS.

IN MANY CASES, THESE RULINGS -- WHICH ARE STILL IN EFFECT -- HAVE SUBSTANTIALLY INCREASED THE COSTS OF CONSTRUCTING AND OPERATING NEW PRISONS, AND MADE IT DIFFICULT FOR THE STATES TO USE THEIR EXISTING CORRECTIONAL FACILITIES EFFICIENTLY. THE POPULATION CAPS, IN PARTICULAR, HAVE IN SOME CASES WROUGHT HAVOC WITH THE STATE'S EFFORTS TO GET CRIMINALS OFF THE STREETS.

THESE POPULATION CAPS ARE OF SPECIAL CONCERN. THE FEDERAL SYSTEM IS NOT OPERATING UNDER BURDENSOME COURT DECREES, AND IN JANUARY 1991, OPERATED AT ABOUT 165% OF DESIGN CAPACITY, AND DID SO IN COMPLIANCE WITH THE CONSTITUTION. MANY STATES, HOWEVER, ARE REQUIRED BY JUDICIAL ORDER OR DECREE TO OPERATE AT, OR EVEN BELOW, DESIGN CAPACITY. INDEED, THE OVERALL STATE AVERAGE IN JANUARY 1991 WAS ABOUT 115% OF CAPACITY. IF THE STATES COULD OPERATE AT THE LEVEL OF THE FEDERAL PRISON SYSTEM, THAT WOULD MEAN AN ADDITIONAL 286,000 INMATE BEDS, WHICH TRANSLATES INTO A SAVINGS OF \$13 BILLION IN CONSTRUCTION COSTS.

NOW, I AM NOT SAYING THAT EVERY STATE CAN OPERATE AT THE SAME LEVEL OF CAPACITY AS THE FEDERAL SYSTEM. A NUMBER OF FACTORS GO INTO WHETHER A STATE CAN PROPERLY OPERATE AT ANY GIVEN POPULATION LEVEL, INCLUDING STAFFING DECISIONS AND OTHER PRISON PROGRAM FEATURES. MY POINT HERE IS MERELY TO POINT OUT THE

ENORMOUS POTENTIAL IN TERMS OF ADDITIONAL BEDSPACE THAT MAY BE AVAILABLE IF STATES ARE LEFT TO MANAGE THEIR OWN AFFAIRS.

IN MY VIEW, STATES SHOULD NOT BE ASKED TO OPERATE UNDER JUDICIAL DECREES THAT IN MANY INSTANCES WERE BASED ON DISCREDITED LEGAL THEORIES AND THAT IMPOSE UNDULY BURDENSOME RESTRICTIONS. WE MUST ALLOW STATE OFFICIALS TO EXERCISE THEIR LAWFUL DISCRETION. IT IS INCUMBENT UPON THE DEPARTMENT OF JUSTICE TO SUPPORT THOSE STATES THAT ARE OPERATING THEIR PRISONS IN GOOD FAITH COMPLIANCE WITH THE CONSTITUTION AND THAT SEEK RELIEF FROM THE UNDUE CONSTRAINTS OF PROTRACTED PRISON LITIGATION.

LET ME SET FORTH THE GENERAL PRINCIPLES THAT I BELIEVE ARE APPLICABLE IN THIS AREA:

FIRST -- AS THE SUPREME COURT HAS RECENTLY MADE CLEAR -- THE FEDERAL COURTS HAVE NO AUTHORITY TO HOLD THAT PRISON CONDITIONS ARE UNCONSTITUTIONAL UNLESS IT IS PROVEN THAT PRISON OFFICIALS HAVE ACTED WITH "DELIBERATE INDIFFERENCE" TO "THE MINIMAL CIVILIZED MEASURE OF LIFE'S NECESSITIES". IT IS NOT ENOUGH FOR A COURT TO FIND THAT THE "OVERALL CONDITIONS" IN THE PRISON ARE BAD OR SUBSTANDARD WHERE NO SPECIFIC DEPRIVATION OF A HUMAN NEED IS DEMONSTRATED.

SECOND, IN REMEDYING CONSTITUTIONAL VIOLATIONS, THE COURTS ARE NOT FREE TO ORDER PRISON OFFICIALS TO IMPROVE CONDITIONS

BEYOND THE BASIC MINIMAL NECESSITIES REQUIRED BY THE CONSTITUTION. AS THE SUPREME COURT HAS RECOGNIZED, THE CONSTITUTION "DOES NOT MANDATE COMFORTABLE PRISONS," AND COURTS MAY NOT REQUIRE PRISON OFFICIALS TO FOLLOW WHAT SOME MAY THINK ARE "SOUND CORRECTIONAL PRACTICES."

THIRD, THE BUSINESS OF RUNNING PRISONS BELONGS TO THE APPROPRIATE STATE OFFICIALS, NOT TO FEDERAL JUDGES AND SPECIAL MASTERS. THE FACT THAT A COURT FINDS A CONSTITUTIONAL VIOLATION DOES NOT JUSTIFY COURT SUPERVISION OF PRISONS EITHER DIRECTLY OR THROUGH THE APPOINTMENT OF A SPECIAL MASTER. THE DUTY TO VINDICATE INMATES' CONSTITUTIONAL RIGHTS DOES NOT CONFER ON THE COURTS THE POWER TO MANAGE PRISONS. WHERE A COURT FINDS A CONSTITUTIONAL VIOLATION, IT SHOULD GIVE THE STATE THE OPPORTUNITY TO REMEDY THE VIOLATION WITHOUT TAKING OVER CONTROL OF THE PRISON SYSTEM.

MOREOVER, ONCE A STATE HAS CURED THE SPECIFIC CONSTITUTIONAL DEFECT IDENTIFIED BY THE COURT, ONGOING REMEDIAL DECREES SHOULD BE TERMINATED. COURT-IMPOSED ORDERS SHOULD NOT "OPERATE IN PERPETUITY." ONCE THE STATE HAS COME INTO COMPLIANCE WITH THE CONSTITUTION, NEITHER CONTINUING COURT SUPERVISION NOR PERMANENT CONDITIONS AND LIMITATIONS ARE APPROPRIATE. IF CONDITIONS AGAIN FALL BELOW THE CONSTITUTIONAL MINIMUM, THEN EITHER PRISONERS OR THE DEPARTMENT OF JUSTICE REMAINS FREE TO INITIATE A NEW ACTION.

FOURTH, MANY STATES ARE NOW OPERATING UNDER CONSENT DECREES THAT IMPOSE CONDITIONS THAT GO WELL BEYOND THE MINIMAL REQUIREMENTS OF THE CONSTITUTION. IN MOST CASES, THOSE DECREES WERE NEGOTIATED AT A TIME WHEN SOME LOWER COURTS THOUGHT THE EIGHTH AMENDMENT REQUIRED MORE AMBITIOUS IMPROVEMENTS BY THE STATES.

COURTS MUST BE READY TO VACATE OR MODIFY SUCH EXISTING PRISON CONSENT DECREES WHERE A STATE SEEKS SUCH MODIFICATION. WHERE THE CONSTITUTIONAL LAW HAS CHANGED, THE UNDERLYING PREMISES OF THE PARTIES' AGREEMENT ARE ERODED. THE STATE, WHICH HAS THE RIGHT TO RUN ITS OWN PRISONS, MUST BE GIVEN THE OPPORTUNITY TO REFORM OR RESCIND THE AGREEMENT. MOREOVER, IN CONSIDERING WHETHER TO VACATE OR MODIFY A PRISON CONSENT DECREE, THE COURTS SHOULD ALSO CONSIDER CHANGES IN OTHER CONDITIONS AS WELL. BECAUSE OF THE UNIQUELY INTRUSIVE NATURE OF CONSENT DECREES GOVERNING THE OPERATION OF STATE PRISONS, COURTS SHOULD REMAIN FLEXIBLE IN ALLOWING THE STATE TO MODIFY OR ELIMINATE EVEN AGREED-UPON LIMITATIONS.

WITH THESE GENERAL PRINCIPLES IN MIND, LET ME DESCRIBE HOW THE JUSTICE DEPARTMENT WILL GENERALLY APPROACH PRISON LITIGATION:

(1) THE DEPARTMENT SHOULD NOT INITIATE PRISON LITIGATION, OR INTERVENE IN ON-GOING PRISON LITIGATION, UNLESS NECESSARY TO REMEDY SPECIFIC DEPRIVATIONS OF A PRISONER'S BASIC HUMAN NEEDS --

DEPREVIATIONS WHICH RISE TO THE LEVEL OF CRUEL AND UNUSUAL PUNISHMENT.

(2) IN PRISON LITIGATION, THE DEPARTMENT SHOULD SEEK TO REMEDY CONSTITUTIONAL VIOLATIONS, BUT SHOULD NOT SEEK TO IMPOSE ON THE STATES ADDITIONAL BURDENS NOT REQUIRED BY THE CONSTITUTION OR OTHER APPLICABLE FEDERAL LAW.

(3) WHERE A CONSENT DECREE OR OTHER JUDICIAL ORDER REMAINS IN EFFECT, THE DEPARTMENT SHOULD CONSIDER WHETHER TO SUPPORT A STATE'S REQUEST FOR MODIFICATION OF SUCH DECREE OR ORDER TO THE EXTENT NECESSARY TO REMOVE RESTRAINTS ON THE STATE NOT REQUIRED BY THE CONSTITUTION.

(4) THE DEPARTMENT SHOULD NOT ENCOURAGE CONTINUING COURT SUPERVISION OF STATE PRISONS, EITHER DIRECTLY OR BY SPECIAL MASTER, UNLESS SUCH SUPERVISION IS PLAINLY REQUIRED TO REMEDY A CONTINUING CONSTITUTIONAL VIOLATION.

(5) FINALLY, WHERE A STATE HAS REMEDIED PAST CONSTITUTIONAL VIOLATIONS, AND THERE IS NO INDICATION THAT THE STATE WILL REVERT TO SUCH UNLAWFUL PRACTICES, THE DEPARTMENT SHOULD SUPPORT TERMINATION IN A TIMELY MANNER OF ALL LITIGATION THAT LIMITS THE ABILITY OF A STATE TO RUN ITS OWN PRISON FACILITIES.

I WANT TO STRESS TWO IMPORTANT CAVEATS TO THE DIRECTION WE ARE TAKING ON PRISON LITIGATION:

FIRST, I AM NOT SAYING THAT ALL PRIOR FEDERAL COURT INVOLVEMENT IN PRISON LITIGATION WAS INAPPROPRIATE. ON THE CONTRARY, IN MANY INSTANCES, THE CONDITIONS IN STATE PRISONS GENUINELY DID FALL BELOW THE CONSTITUTIONAL MINIMUM, AND THE JUSTICE DEPARTMENT PLAYED A LEADING ROLE IN CHALLENGING THOSE CONDITIONS. THE DEPARTMENT OF JUSTICE WILL CONTINUE TO PROTECT VIGOROUSLY THE CONSTITUTIONAL RIGHTS OF STATE PRISONERS. ALTHOUGH WE BELIEVE THAT STATE OFFICIALS SHOULD HAVE DISCRETION TO RUN THEIR OWN PRISON FACILITIES WITHOUT UNDUE FEDERAL INTERFERENCE, WE WILL NOT TOLERATE GENUINELY UNCONSTITUTIONAL CONDITIONS, AND WE HAVE THE MEANS TO ENFORCE THE PROTECTIONS OF THE EIGHTH AMENDMENT.

SECOND, THE POLICIES I AM ANNOUNCING TODAY GOVERN ONLY THE DEPARTMENT'S ROLE IN LITIGATION CONCERNING PRISONERS WHO HAVE BEEN CONVICTED AND SENTENCED. THESE POLICIES DO NOT APPLY TO LITIGATION WITH RESPECT TO THE MENTALLY OR PHYSICALLY DISABLED, OR OTHER INSTITUTIONALIZED PERSONS. THESE PERSONS ARE OBVIOUSLY NOT TO BE SUBJECTED TO A PUNITIVE ENVIRONMENT, AND THEIR BASIC RIGHTS ARE CONTROLLED BY OTHER CONSTITUTIONAL AND STATUTORY PROVISIONS, NOT BY THE CRUEL AND UNUSUAL PUNISHMENT CLAUSE OF THE EIGHTH AMENDMENT.

NOR DO THESE POLICIES APPLY IN ANY WAY TO THE JUSTICE DEPARTMENT'S LITIGATION CHALLENGING UNLAWFUL RACIAL, ETHNIC, AND GENDER DISCRIMINATION. THE FEDERAL GOVERNMENT AND THE FEDERAL COURTS HAVE A SPECIAL OBLIGATION TO REMOVE THE CONTINUING VESTIGES OF DISCRIMINATION, AND THE PRINCIPLES THAT GOVERN INSTITUTIONAL LITIGATION IN THE PUNITIVE SETTING OF INCARCERATION OBVIOUSLY DO NOT CONTROL CIVIL RIGHTS LITIGATION.

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Section: Washington

Justice Department to Help States Lift Court-Imposed Inmate Limits

JAMES ROWLEY

WASHINGTON

Reversing a longstanding policy, the Justice Department said Tuesday it will help states that want to lift court-imposed limits on prison populations and lock up more violent criminals.

Attorney General William P. Barr, announcing the policy shift in a speech to local prosecutors in Palm Springs, Calif., said court orders issued over the last 20 years have hampered the efficient operation of prisons.

Caps on prison populations "have in some cases wrought havoc with the state's efforts to get criminals off the streets," Barr said.

"The business of running prisons belongs to the appropriate state officials, not to federal judges and special masters," he said in a speech to the California District Attorneys Association. A copy of the text was released by the Justice Department here.

Barr said the department would consider requests from states for support in legal efforts to end court supervision "to remove restraints on the state not required by the Constitution."

Where states have remedied past violations, "the department should support termination in a timely manner of all litigation that limits the ability of a state to run its own prison facilities," Barr said.

Civil libertarians immediately attacked the new policy, saying it would only encourage local authorities to crowd more and more inmates into antiquated institutions.

"You are going to create more violent criminals if you treat

them in an inhumane manner, that is all these federal judges found who are enforcing the Constitution," said Rep. Don Edwards, D-Calif., chairman of the House Judiciary civil rights subcommittee.

Court orders governing prison conditions, including population levels, medical care, activity programs and diet, are in force in 45 states plus the District of Columbia, Guam and the Virgin Islands, according to figures compiled by the National Prison Project of the American Civil Liberties Union.

Elizabeth Alexander, deputy director of the prison project, said Barr "has no concept of the reality of putting people" into crowded prisons, usually two inmates to a cell.

"We are talking about two people spending often up to 23, 24 hours a day in a space that is about the size of the average American bathroom," she said in an interview. "I have this sense of a person who has no idea of reality when he makes pronouncements of this sort."

Citing a Supreme Court decision last year, Barr said the justices held that "the federal courts have no authority to hold that prison conditions are unconstitutional unless it is proven that prison officials acted with 'deliberate indifference'" to living conditions.

Barr said the Justice Department's civil rights division will not file lawsuits or intervene in cases brought by inmates "unless necessary to remedy specific deprivations of a prisoner's basic human needs depravations which give rise to the level of cruel and unusual punishment."

Nor, he said, should the department try to impose on states any conditions not required by the Constitution or other federal laws.

"The department should not encourage continuing court supervision of state prisons... unless such supervision is plainly required to remedy a continuing constitutional violation," Barr said.

The Justice Department's civil rights division has sued states over prison conditions under the 1980 Civil Rights for Institutionalized Persons Act. Since then it has obtained court orders involving state prisons in five states or U.S. territories Texas, California, Michigan, Guam and the Virgin Islands.

In the 1970s, the Justice Department frequently intervened on the side of inmates suing state prisons over conditions.

Barr said he directed the civil rights division to "consider whether to support a state's request for modification of such decrees ... to remove restraints on the state not required by the Constitution."

John Dunne, assistant attorney general for civil rights, said no state has requested Justice Department assistance in lifting consent decrees.

Since 1980, the department has obtained court orders against six prisons in five states or territories that involve lack of medical care or other services that may have resulted in overcrowding.

---- **Index References** ----

News Subject: (Judicial (1JU36); Legal (1LE33); Social Issues (1SO05); Prisons (1PR87))

Region: (USA (1US73); Americas (1AM92); North America (1NO39); California (1CA98))

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Other Indexing: (AMERICAN CIVIL LIBERTIES; CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION; CIVIL; CONSTITUTION; COURT; DISTRICT OF COLUMBIA; EDWARDS; HOUSE JUDICIARY; IMPOSED INMATE LIMITS; JUSTICE DEPARTMENT; NATIONAL PRISON PROJECT; STATES LIFT COURT; SUPREME COURT) (Barr; Caps; Elizabeth Alexander; John Dunne; Reversing; William P. Barr)

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U.S. SHIFTS ON PRISON CROWDING; JUSTICE DEPT. TO FIGHT SOME POPULATION CAPS

Sharon LaFraniere

The Justice Department, in a dramatic policy reversal, yesterday announced it wants to lend a hand to some states that seek to lift court-imposed limits on their prison populations. Attorney General William P. Barr said in a speech in Palm Springs, Calif., that some courts went beyond upholding prisoners' constitutional rights and have denied states badly needed beds for violent criminals. But prison rights groups immediately criticized his decision, saying it paves the way for inhumane prisons and increases the threat of violent outbreaks. Most states, as well as the District, operate at least one prison under court orders governing population size or other conditions.

The Justice Department itself pressed for court supervision in three states and two territories -- examples that helped attorneys for inmates win consent decrees in other states. The new policy to attack some decrees marks the second time in two weeks Barr has moved to address violent crime, considered a potential political problem for President Bush as he seeks reelection. Last week, Barr announced the reassignment of 300 FBI agents from espionage investigations to violent crime cases. "The choice is clear," Barr told the California District Attorneys Association. "More prison space or more crime." Barr said the Constitution requires only that inmates not be subjected to cruel and unusual punishment, although Elizabeth Alexander, associate director of the National Prison Project, said the Supreme Court has held that consent decrees can go beyond federal law. A number of the consent decrees, Barr said, are overly broad, "specifying the particulars of prisoners' diets, exercise, visitation rights and health care. Most burdensome of all, these decrees imposed limitations or caps on the population of state prisons," he said. Justice Department officials said squeezing in more inmates will not necessarily lead to more prison violence and cited the federal prison system as an example of how a system can be well run even when overcrowded. The federal system operates at 165 percent of its designed capacity, while state prisons average about 115 percent of capacity. California's is the most overcrowded, at 168 percent of capacity. "If state prisons could operate at the same level as federal prisons," Barr said, "that would mean an additional 286,000 inmate beds, which translates into a savings of \$13 billion in construction costs." Prisoner rights groups estimated that some or all of the prisons in 45 states now operate under court orders, most of which include population caps. The Justice Department estimates consent decrees govern prisons in fewer than 35 states. The department itself helped obtain court orders in Texas, California, Michigan, Guam, the Virgin Islands and three local jails, officials said. Department officials said the Justice Department will not initiate action to lift the court orders, but will help states that try to do so as long as inmates' constitutional rights remain protected. Rep. Don Edwards (D-Calif.), who heads the House Judiciary subcommittee on civil and constitutional rights, called the new policy misguided. Alexander, of the National Prison Project, said, "This is another round of Willie Horton . . . reflecting the plummeting status of the president with the New Hampshire primary coming. . . . We are talking about two people spending often up to 23, 24 hours a day in a space that is about the size of the average American bathroom," she said. Barr, in justifying the new policy, cited the Supreme Court's ruling in June that prisoners who file lawsuits over inhumane living conditions must show prison officials exhibited

"deliberate indifference" to their rights, Justice Department officials said. In a 5 to 4 decision, the justices said prisoners must not only show conditions are so egregious as to violate the Constitution, but also prove that prison officials knew about the problems and did not make adequate efforts to alleviate them. Only last year, the Justice Department joined with the American Civil Liberties Union to contend that courts should focus on the conditions, not officials' intent.

--- **Index References** ---

News Subject: (Prisons (1PR87); Government Litigation (1GO18); Judicial Cases & Rulings (1JU36); Legal (1LE33))

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Body

NIKE Inc. (NYSE, PSE: NKE), the world's largest manufacturer of athletic footwear and apparel, has received the highest honor given to a corporation by the Boys & Girls Clubs of America, the Corporate Recognition Award, NIKE said today.

Ralph DeNunzio, former chief executive officer of Kidder, Peabody, and president of the New York Stock Exchange, and a current member of NIKE's board of directors, accepted the award on behalf of the company at a reception in New York on Dec. 11 at the Waldorf-Astoria Hotel. The award was given in recognition of NIKE's strong support of programs supporting children from disadvantaged circumstances. NIKE has for the past two years supported the efforts of the Boys & Girls Clubs of America with a \$250,000 leadership grant from NIKE's Just Do It Fund for implementation of the NIKE Cross Training Challenge, a program designed to stimulate interest in learning by combining academic and athletic achievement.

The NIKE Cross Training Challenge is a five-part series of academic and athletic contests which feature some of NIKE's most successful endorsement athletes, including the Chicago White Sox' Bo Jackson and Chicago Bulls superstar Michael Jordan. The series includes an essay writing competition, a geography and map skills challenge, a jumpropping and basketball competition and a combination challenge which incorporates parts of the other four categories.

Jeremiah Milbank, chairman of the board of Boys & Girls Clubs of America, stated that "the decline in the quality of education in this country has resulted in young people who lack the skills necessary for succeeding in today's society. Through NIKE's support, we are able to provide a series of education and recreational programs which develop young peoples' minds as well as their bodies."

Past recipients of the Corporate Recognition Award include: Bristol-Myers Co., Manufacturers Hanover Trust Co., PepsiCo, IBM and the Marriott Corp.

U.S. Attorney General William P. Barr was the guest speaker at the luncheon and the Honorable Arnold I. Burns, partner of Proskauer Rose Goetz & Mendelson, served as the master of ceremonies.

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REMARKS OF

WILLIAM P. BARR
ATTORNEY GENERAL

AT THE

ILLINOIS STATE'S ATTORNEYS ASSOCIATION
1991 WINTER CONFERENCE LUNCHEON
WESTIN HOTEL, CHICAGO, ILLINOIS

DECEMBER 18, 1991

BEFORE I TALK ABOUT THE SPECIFICS OF CRIMINAL LAW REFORM, I WOULD LIKE TO TAKE A MOMENT TO REFLECT ON WHERE OUR CRIMINAL JUSTICE SYSTEM HAS BEEN AND WHERE IT IS GOING.

I WOULD LIKE TO START WITH A FEW THOUGHTS ABOUT WHAT WE MEAN BY "JUSTICE".

WE SHOULD NEVER FORGET THAT JUSTICE IS DONE WHEN APPROPRIATE PUNISHMENT IS IMPOSED ON THE GUILTY PARTY. THAT IS WHAT JUSTICE IS ABOUT. EXACTING A PUNISHMENT. RETRIBUTION. JUSTICE IS 'WHEN THE BAD GUY GETS WHAT HE DESERVES.'

THE DESIRE FOR RETRIBUTIVE JUSTICE IS HARD-WIRED INTO HUMAN BEINGS. IT IS NOT A BASE INSTINCT, BUT A NOBLE ONE -- THIS DEEP SENSE THAT WHEN SOMEONE VIOLATES THE LAW AND HURTS ANOTHER, THE SCALES MUST BE RIGHTED BY IMPOSING SOME PUNISHMENT ON THE WRONGDOER. THIS SENSE IS ULTIMATELY THE FOUNDATION OF ALL SOCIAL ORDER.

IN EARLY SOCIETIES, INDIVIDUALS PURSUED JUSTICE PRIVATELY. THE ANGLO-SAXONS HAD THE BLOOD-FEUD. WHEN AN INDIVIDUAL WAS HARMED, HIS FAMILY WOULD GO AFTER THE TRANSGRESSOR TO EXACT PUNISHMENT.

THIS SYSTEM HAD NO PROCESS, AND THE PROBLEM WITH IT WAS THAT FREQUENTLY THE WRONG PERSON WAS PUNISHED OR THE PUNISHMENTS IMPOSED ON THE RIGHT PERSON WERE CRUELLY DISPROPORTIONATE.

AS THE SOCIAL CONTRAST EVOLVED, THE STATE TOOK ON RESPONSIBILITY FOR IDENTIFYING WRONGDOERS AND IMPOSING APPROPRIATE PUNISHMENT. INDIVIDUALS GAVE UP THEIR PERSONAL RIGHT TO DO SO. AND STATES DEVELOPED REGULAR PROCESSES TO FACILITATE DECIDING GUILT OR INNOCENCE AND SELECTING THE PROPER PENALTY.

WE ARE FORTUNATE THAT THE FRAMERS OF OUR CONSTITUTION ESTABLISHED A FAIR AND ENLIGHTENED CRIMINAL PROCESS. AS CONCEIVED, AND AS APPLIED THROUGH MOST OF OUR HISTORY, THIS PROCESS -- WITH ALL ITS FAMILIAR GUARANTEES -- HAS BEEN EFFECTIVE NOT ONLY IN PROTECTING THE RIGHTS OF THE ACCUSED BUT ALSO IN SERVING ITS ULTIMATE PURPOSE OF FINDING THE TRUTH AND IDENTIFYING AND PUNISHING THE GUILTY.

RECENTLY, SOMETHING HAS GONE AWRY IN HOW WE THINK ABOUT JUSTICE. SOME PEOPLE TEND TO CONFUSE THE PROCESS FOR ACHIEVING JUSTICE WITH JUSTICE ITSELF. THEY EXALT PROCESS TO THE POINT THAT IT HAS BECOME AN END IN ITSELF, RATHER THAN THE MEANS TO AN END -- THE PUNISHMENT OF THE GUILTY. FOR THESE PEOPLE, PERFECT PROCESS HAS COME TO MEAN PERFECT JUSTICE REGARDLESS OF WHETHER JUSTICE HAS ACTUALLY BEEN ACHIEVED IN THE END.

IN AN IMPOSSIBLE QUEST TO ACHIEVE ABSOLUTE PERFECTION IN THE PROCESS, THESE PEOPLE HAVE IMPOSED AN ENDLESS SERIES OF PROCEDURAL INVENTIONS AND OBSTACLES WHICH HAVE SERIOUSLY IMPAIRED THE ABILITY OF THE PROCESS TO METE OUT JUSTICE.

I THINK THAT THIS DISTINCTION BETWEEN THE PROCESS FOR ACHIEVING JUSTICE AND THE JUST RESULT ITSELF, AND THE CONFUSION THAT EXISTS CONCERNING THESE IDEAS, HELPS US UNDERSTAND BOTH THE RECENT HISTORY OF, AND THE CURRENT DEBATE OVER, OUR CRIMINAL JUSTICE SYSTEM.

LET ME TURN NOW TO THAT RECENT HISTORY AND WHAT HAS HAPPENED TO OUR CRIMINAL JUSTICE SYSTEM OVER THE LAST 30 YEARS.

THE 1960'S AND 1970'S WERE AN ERA OF PERMISSIVENESS. THE IDEA OF PERSONAL RESPONSIBILITY FELL OUT OF FASHION.

CRIMINALS WERE VIEWED AS VICTIMS OF SOCIETY, NOT AS PREDATORS. LENIENCY, NOT PUNISHMENT, WAS THE WATCHWORD OF THE DAY.

THE 1960'S WERE THE HIGH-WATER MARK OF THE WARREN COURT. THAT COURT WORKED FUNDAMENTAL CHANGES OF OUR CRIMINAL JUSTICE SYSTEM. THE COMMON THREAD LINKING MANY OF THESE CHANGES WAS THE NOTION THAT PROCESS IS MORE IMPORTANT THAN APPREHENSION AND PUNISHMENT. IN MANY OF THE WARREN COURT DECISIONS OF THE 1960'S,

THE CRIMINAL JUSTICE SYSTEM'S ROLE OF FINDING OUT WHO DID IT AND PUNISHING THEM WAS CONSCIOUSLY BRUSHED ASIDE IN FAVOR OF OTHER VALUES, PERCEIVED BY THE COURT AS MORE IMPORTANT.

AN EXAMPLE OF THIS APPROACH WAS MAPP V. OHIO (1961). THERE WITH A STROKE OF THE PEN, THE COURT OVERRULED A CENTURY OF PRECEDENT AND EXTENDED THE EXCLUSIONARY RULE -- NEVER THOUGHT TO BE CONSTITUTIONALLY MANDATED -- TO EVERY CRIMINAL COURTROOM IN THE UNITED STATES. IN DISSSENT, JUSTICE HARLAN DECRIED IMPOSITION OF THIS "MUCH-DEBATED PROCEDURE ON THE LOCAL COURTS," A PROCEDURE WHICH DISTRACTED FROM "THE ONE ISSUE WITH WHICH THE TRIAL IS CONCERNED, THE GUILT OR INNOCENCE OF THE ACCUSED."

ANOTHER EXAMPLE OF THE ELEVATION OF PROCESS OVER JUSTICE IS THE WARREN COURT'S JURISPRUDENCE IN THE AREA OF HABEAS CORPUS. IN TWO 1963 DECISIONS, FAY V. NOIA AND TOWNSEND V. SAIN, THE COURT RADICALLY EXPANDED THE JURISDICTION OF THE FEDERAL COURTS TO ENTERTAIN ISSUES RAISED BY STATE PRISONERS ON FEDERAL HABEAS CORPUS. UNDER THESE DECISIONS, FEDERAL COURTS WERE AUTHORIZED TO REEXAMINE STATE COURT FACTUAL JUDGMENTS AND TO ENTERTAIN CLAIMS THAT WERE NOT EVEN PRESENTED TO THE STATE COURTS DURING THE PETITIONER'S TRIAL AND APPEALS. THESE DECISIONS COMPLETED A RADICAL REWORKING OF THE FEDERAL WRIT OF HABEAS CORPUS INTO A NEVER ENDING SERIES OF FEDERAL APPEALS FOR STATE PRISONERS.

I DO NOT MEAN TO SUGGEST THAT EVERY CRIMINAL LAW DECISION OF THE WARREN COURT IS SUSPECT, OR THAT NONE OF THEM WERE CORRECTLY DECIDED. WHAT I DO MEAN TO SUGGEST IS THAT THE CUMULATIVE EFFECT OF THOSE DECISIONS WAS TO RADICALLY SUBORDINATE THE TRUTH-SEEKING AND PUNISHMENT FUNCTIONS OF OUR CRIMINAL JUSTICE SYSTEM TO VINDICATE OTHER VALUES. AT SOME POINT, THE PENDULUM SWUNG TOO FAR, AND THE SYSTEM BEGAN TO LOSE THE CONFIDENCE OF THE CITIZENRY. THE WARREN COURT SYSTEM WAS SO GOOD AT PROTECTING OTHER VALUES, IT HAD NO TIME TO PROTECT INNOCENT CITIZENS FROM VIOLENT PREDATORS.

THE PERMISSIVENESS OF THE 60'S AND 70'S -- AND THIS DISTORTION OF THE CRIMINAL JUSTICE SYSTEM RESULTED IN DECREASING RATES OF INCARCERATION. FEWER CRIMINALS WERE PUT AWAY FOR LONG PERIODS OF TIME.

AS INCARCERATION RATES DROPPED, THE RATE OF VIOLENT CRIME SOARED.

IN THE 60'S AND 70'S, THE VIOLENT CRIME RATE ROSE FROM 286 PER 100,000 IN 1960 TO AN ALL TIME HIGH IN 1980 OF 597 PER 100,000 -- MORE THAN DOUBLE IN TWO DECADES.

1980 MARKS A WATERSHED. IT WAS THEN THAT THE REACTION AGAINST THESE EXCESSES STARTED TO TAKE HOLD.

WE BEGAN THE LONG AND DIFFICULT TASK OF RESTORING THE CRIMINAL JUSTICE SYSTEM -- REBALANCING IT TO GIVE GREATER WEIGHT TO THE RIGHTS OF SOCIETY AND VICTIMS AND LESS TO THE SENSIBILITIES OF CRIMINALS.

WE SOUGHT REFORMS THAT WOULD ONCE AGAIN MAKE THE SYSTEM EFFECTIVE AT PERFORMING ITS FUNDAMENTAL TASK -- IDENTIFYING AND PUNISHING CRIMINALS.

STARTING UNDER PRESIDENT REAGAN, GREAT ATTENTION HAS BEEN PAID TO SELECTING JUDGES WHO WOULD ESCHEW THE ACTIVISM OF THE 60'S AND 70'S AND BE MORE SUPPORTIVE OF THE LEGITIMATE NEEDS OF LAW ENFORCEMENT.

PRESIDENT BUSH HAS CONTINUED THIS EFFORT. TODAY, 5 OF THE 9 SUPREME COURT JUSTICES AND OVER 60% OF THE FEDERAL JUDGESHIPS HAVE BEEN APPOINTED BY EITHER PRESIDENT REAGAN OR PRESIDENT BUSH.

AND SLOWLY -- GRADUALLY -- DURING THE 1980'S -- THE EXCESSES OF THE WARREN COURT YEARS HAVE BEEN CONTAINED -- AND A MORE BALANCED JURISPRUDENCE HAS BEGUN TO EMERGE.

FURTHERMORE, DURING THE 80'S WE MADE MAJOR ADVANCES IN REFORMING THE CRIMINAL JUSTICE SYSTEM THROUGH LEGISLATIVE ACTION. AT THE FEDERAL LEVEL WE OBTAINED EFFECTIVE PREVENTIVE DETENTION

THROUGH BAIL REFORM, AND OBTAINED SURER AND STRONGER PENALTIES THROUGH SENTENCING REFORM.

LAW ENFORCEMENT WAS GIVEN IMPORTANT NEW TOOLS LIKE ASSET FORFEITURE AND MANDATORY MINIMUM SENTENCES. AND WE STARTED TO TAKE STEPS TO PROTECT AND HELP THE VICTIMS OF CRIME.

THESE SUBSTANTIVE REFORMS WERE ACCOMPANIED AT THE FEDERAL LEVEL AND IN MANY STATES BY SIGNIFICANT INCREASES IN LAW ENFORCEMENT RESOURCES. THE DEPARTMENT OF JUSTICE'S BUDGET TRIPLED DURING THE 1980'S, AND STATE AND LOCAL CRIMINAL JUSTICE SPENDING NEARLY DOUBLED.

MOST IMPORTANTLY, DURING THE 1980'S, WE WERE REMINDED THAT THE PURPOSE OF A LAW ENFORCEMENT SYSTEM IS TO PUNISH CRIMINALS. WE REAFFIRMED THE COMMON SENSE NOTION THAT THE BEST WAY TO PROTECT THE PUBLIC IS TO INCAPACITATE HABITUAL CRIMINALS -- KEEPING THEM OFF THE STREETS -- BY LOCKING THEM AWAY FOR A LONG TIME.

BECAUSE OF THESE TOUGHER POLICIES, THE 1980'S HAVE SEEN A SUBSTANTIAL RISE IN INCARCERATION RATES. WE HAVE GONE FROM AN INCARCERATION RATE OF 134 PER 100,000 IN 1980 TO A RATE OF 292 PER 100,000 IN 1990.

THESE TOUGHER POLICIES HAVE HAD AN IMPACT ON VIOLENT CRIME. THE SPIRALING CRIME RATE OF THE 60'S AND 70'S HAS BEEN ARRESTED. OVERALL, THE VIOLENT CRIME RATE HAS HELD RELATIVELY STEADY DURING THE 1980'S.

CONSIDER THAT IN THE 60'S THE MURDER RATE CLIMBED 55%; IN THE 70'S IT ROSE 29%; BUT IN THE 80'S IT ACTUALLY DROPPED BY 8%.

OR THE RATE OF RAPE, WHICH INCREASED BY 97% IN THE 60'S AND ANOTHER 97% IN THE 70'S, ROSE BY 12% IN THE 80'S.

OR THE RATE OF AGGRAVATED ASSAULT AND ROBBERY, WHICH IN THE 1960'S INCREASED BY 187%, BUT WHICH IN THE 1980'S INCREASED BY 2%.

WHILE THE LEVEL OF VIOLENT CRIME REMAINS UNACCEPTABLY HIGH, WE HAVE AT LEAST SEEN AN END TO THE DRAMATIC INCREASES IN VIOLENT CRIME THAT MARKED THE PREVIOUS TWO DECADES.

IN SHORT, AFTER TWO DECADES OF RETREAT IN THE 60'S AND 70'S, IN THE 1980'S WE HAVE STOPPED THE RETREAT; WE HAVE STOOD OUR GROUND; WE HAVE HELD THE LINE. THIS IS AN ACHIEVEMENT.

WHAT MAKES THE ACHIEVEMENT ALL THE MORE REMARKABLE IS THAT IT HAS OCCURRED AT THE HEIGHT OF THE DRUG EPIDEMIC AND ALL THE VIOLENT CRIME IT SPAWNS. AS HIGH AS VIOLENT CRIME LEVELS ARE

TODAY, IT IS INDEED FRIGHTENING TO THINK WHERE WE WOULD BE WITHOUT THE TOUGH LAW ENFORCEMENT POLICIES WE PURSUED IN THE 1980'S.

THE CHALLENGE OF THE 90'S

BUT THE ISSUE THAT FACES US TODAY IS THIS: WHERE DO WE GO IN THE 90'S?

WILL THIS BE A DECADE OF RETREAT? WILL VIOLENT CRIME RESUME ITS UPWARD SPIRAL?

WILL WE BE CONTENT SIMPLY TO HOLD VIOLENT CRIME IN CHECK AT ITS ALREADY HIGH LEVELS?

OR WILL WE MAKE REAL GAINS IN VIOLENT CRIME? WILL WE BE ABLE TO MAKE OUR STREETS AND COMMUNITIES SAFER?

I BELIEVE THAT THE PROSPECTS FOR MAKING FURTHER PROGRESS AGAINST VIOLENT CRIME ARE EXCELLENT. THE KEY, I THINK, IS THAT WE IN LAW ENFORCEMENT AT ALL LEVELS -- PROSECUTORS AND POLICE, FEDERAL AND STATE -- MUST STAND TOGETHER AS A STRONG AND UNIFIED FORCE.

SPECIFICALLY, I SEE FOUR MAJOR TASKS THAT WE MUST PURSUE TOGETHER THROUGH THIS DECADE.

FIRST, WE MUST "STAY THE COURSE" ON JUDICIAL SELECTION. AT THE FEDERAL LEVEL, THE REHNQUIST COURT HAS REFUSED TO EXPAND ON THE WARREN COURT'S PRECEDENTS, AND HAS EVEN REVERSED SOME OF THE MOST EGREGIOUS EXCESSES.

HOWEVER, MANY OF THESE LAW ENFORCEMENT VICTORIES HAVE COME BY THE SLIMMEST OF MARGINS, AND MANY COURTS OF APPEALS HAVE NOT YET GOTTEN THE MESSAGE.

PRESIDENT BUSH IS COMMITTED TO THE SELECTION OF JUDGES WHO ARE SENSITIVE TO THE PRACTICAL NEEDS OF LAW ENFORCEMENT -- JUDGES WHO WILL NOT HANDCUFF POLICE AND PROSECUTORS WITH MORE NEEDLESS TECHNICALITIES.

BUT THESE NEW FEDERAL JUDGES CANNOT ALONE REDRESS THE IMBALANCE.

THE LIBERAL ACTIVISTS WHO PINE FOR THE DAYS OF THE WARREN COURT NOW SEEK REFUGE IN STATE COURTS. UNFORTUNATELY, THEY ARE FINDING AN ALL TOO WARM RECEPTION IN SOME QUARTERS. INCREASINGLY, WE SEE STATE COURT APPELLATE JUDGES REPEATING THE EXCESSES OF THE WARREN COURT IN THEIR STATE SYSTEMS.

JUDICIAL SELECTION AT BOTH THE STATE AND FEDERAL LEVEL IS

CRITICAL AND WE IN LAW ENFORCEMENT MUST BE UNREMITTING IN PUSHING FOR RESPONSIBLE JURISTS.

THE SECOND TASK BEFORE US IN THE 1990'S WILL BE TO MAINTAIN THE ESSENTIAL RESOURCES WE NEED TO COMBAT CRIME.

THIS IS A TIME OF FISCAL CONSTRAINT AT ALL LEVELS OF GOVERNMENT. THERE ARE ALREADY PRESSURES TO REDUCE SPENDING ON LAW ENFORCEMENT. WE MUST RESIST THOSE PRESSURES.

OBVIOUSLY, WE IN LAW ENFORCEMENT HAVE THE OBLIGATION TO ENSURE THAT WE ARE USING THE TAXPAYERS MONEY WISELY AND EFFECTIVELY. BUT NOW IS NOT THE TIME FOR CUTBACKS IN LAW ENFORCEMENT.

IF ANYTHING THE LEVEL OF VIOLENT CRIME IN OUR SOCIETY IS SO UNACCEPTABLY HIGH, AND THE SCALE OF THE DRUG PROBLEM IS SO WIDESPREAD, THAT WE SHOULD INCREASE OUR INVESTMENT IN MORE POLICE, MORE PROSECUTORS, AND MORE PRISONS.

IN THIS REGARD, I AM PROUD OF PRESIDENT BUSH'S LEADERSHIP. HE HAS, ON THE FEDERAL LEVEL, SOUGHT SUBSTANTIAL INCREASES IN LAW ENFORCEMENT RESOURCES. FOR THE DEPARTMENT OF JUSTICE, INCREASES AVERAGING 20% A YEAR FOR THE PAST THREE YEARS.

WHILE CONGRESS HAS NOT FULLY FUNDED THE PRESIDENT'S REQUESTS, WE HAVE NEVERTHELESS SEEN UNPRECEDENTED GROWTH.

STATE AND LOCAL GOVERNMENTS MUST LIKEWISE BE COMMITTED TO PROVIDING THE NECESSARY RESOURCES. AFTER ALL, 95% OF VIOLENT CRIME IS HANDLED AT THE STATE AND LOCAL LEVEL. IN 1957 THERE WERE 1.4 POLICE OFFICERS FOR EACH VIOLENT OFFENSE COMMITTED; TODAY WE HAVE ONLY .3 POLICE OFFICERS FOR EACH VIOLENT OFFENSE. SO AT LEAST IN RELATION TO VIOLENT CRIME, WE HAVE LESS THAN 1/4 THE POLICE OFFICERS WE HAD 30 YEARS AGO.

STATES MUST SPEND THE MONEY NECESSARY TO PROTECT THE PUBLIC. THE PUBLIC'S SAFETY IS NOT JUST ANOTHER LINE ITEM IN THE BUDGET -- IT IS THE FIRST DUTY OF GOVERNMENT, AND THE PEOPLE HAVE A RIGHT TO DEMAND IT.

CRIMINAL JUSTICE SYSTEM REFORM

THE THIRD TASK WE FACE TOGETHER IN LAW ENFORCEMENT IS TO DEEPEN AND STRENGTHEN THE COOPERATIVE RELATIONSHIPS BETWEEN FEDERAL, STATE AND LOCAL LAW ENFORCEMENT. NO LEVEL OF GOVERNMENT CAN DO THE JOB OF FIGHTING VIOLENT CRIME ALONE.

WE AT THE FEDERAL LEVEL ARE COMMITTED TO SUPPORTING AND ENHANCING THE EFFECTIVENESS OF YOUR EFFORTS. THERE ARE AT LEAST

MANY AREAS WHERE I BELIEVE FEDERAL LAW ENFORCEMENT CAN MAKE A REAL DIFFERENCE:

- (1) IN THE WAR ON DRUGS, WE CAN ATTACK, IN A SYSTEMATIC FASHION, LARGE DRUG TRAFFICKING ORGANIZATIONS;
- (2) WITH REGARD TO GANGS, THE FEDERAL GOVERNMENT CAN FOCUS ON THE DISMANTLING OF THESE CRIMINAL ORGANIZATIONS, AS WE RECENTLY WITNESSED HERE IN CHICAGO IN ACTIONS AGAINST THE EL RUKYNS AND THE VICELORDS;
- (3) IN THE STRUGGLE AGAINST ARMED OFFENDERS, WE CAN USE TOUGH FEDERAL LAWS WHICH INCAPACITATE ARMED CAREER CRIMINALS FOR LONG PERIODS OF TIME. OUR PROJECT TRIGGERLOCK IS AN EXCELLENT EXAMPLE OF THIS SUPPORTIVE ROLE;
- (4) BY EXPANDING OUR WEED AND SEED PROGRAM, WE CAN ASSIST IN THE INTEGRATION OF LAW ENFORCEMENT EFFORTS WITH SOCIAL PROGRAMS;
- (5) IN THE AREA OF INNOVATION, THE FEDERAL GOVERNMENT CAN PROMOTE NEW IDEAS IN STATE AND LOCAL LAW ENFORCEMENT THROUGH GRANTS AND RESEARCH; AND
- (6) WITH REGARD TO THE CRIMINAL JUSTICE

INFRASTRUCTURE, WE ARE COMMITTED TO BUILDING NATIONAL SUPPORT SYSTEMS SUCH AS NCIC AND FINGER-PRINT IDENTIFICATION.

THE FOURTH TASK WE FACE IS TO ACHIEVE FUNDAMENTAL REFORMS OF THE CRIMINAL JUSTICE SYSTEM THROUGH LEGISLATION. AS I HAVE ALREADY SAID, IN THE 1980'S SEVERAL IMPORTANT REFORMS WERE ACCOMPLISHED AT THE FEDERAL LEVEL. UNFORTUNATELY, WHILE SOME STATES HAVE BROUGHT THEIR SYSTEMS UP TO DATE, MANY STATES NOW LAG BEHIND.

IT IS DISTURBING THAT IN ONE SURVEY OF 35 STATES, THE AVERAGE PRISON TIME SERVED FOR HOMICIDE WAS 4 YEARS AND 10 MONTHS. FOR RAPE, IT WAS 3 YEARS AND 8 MONTHS. FOR DRUG TRAFFICKING, 1 YEAR AND 9 MONTHS. IF THE 80'S WERE A TIME OF REFORM IN THE FEDERAL CRIMINAL JUSTICE SYSTEM, THEN THE 90'S SHOULD BE A TIME OF REFORM IN STATE CRIMINAL JUSTICE SYSTEMS.

THESE REFORMS SHOULD INCLUDE PRETRIAL DETENTION, SENTENCING REFORM, UPDATED EVIDENTIARY RULES, AND PROVISION FOR INVESTIGATIVE TOOLS SUCH AS ELECTRONIC SURVEILLANCE. THE FOCUS OF THESE AND ANY OTHER REFORMS SHOULD ALWAYS BE TO RESTORE THE BASIC PURPOSE OF THE SYSTEM: THAT IS TO FIND THE TRUTH AND TO ADEQUATELY PUNISH THE WRONGDOER.

INDEED, THIS IS THE BASIC PURPOSE THAT UNDERLIES THE PRESIDENT'S VIOLENT CRIME BILL. FOR THREE YEARS, PRESIDENT BUSH HAS BEEN CALLING ON THE CONGRESS TO PURSUE THE UNFINISHED AGENDA OF REFORM AT THE FEDERAL LEVEL. THE CENTRAL FEATURES OF HIS PROPOSED LEGISLATION HAVE BEEN: 1) A COMPREHENSIVE FEDERAL DEATH PENALTY; 2) GENUINE AND MEANINGFUL HABEAS CORPUS REFORM WHICH AFFECTS BOTH THE FEDERAL AND STATE SYSTEMS; 3) REFORM OF THE EXCLUSIONARY RULE TO CREATE A GOOD FAITH EXCEPTION IN THE CASE OF A WARRANTLESS SEARCH; AND 4) NEW MANDATORY PRISON SENTENCES FOR VIOLENT CRIMINALS WHO USE FIREARMS.

NO ASPECT OF THE PRESIDENT'S CRIME BILL IS MORE IMPORTANT THAN HABEAS CORPUS REFORM. WHEREAS THE FEDERAL DEATH PENALTY IS VITAL TO THE FEDERAL CRIMINAL JUSTICE SYSTEM, THE PRESIDENT'S HABEAS CORPUS REFORM PROPOSAL WOULD RESTORE INTEGRITY TO THE STATE CRIMINAL JUSTICE PROCESS.

HABEAS CORPUS REFORM AND THE OTHER FEATURES OF THE PRESIDENT'S CRIME BILL HAVE LANGUISHED IN THE CONGRESS FOR THREE YEARS. MOST RECENTLY, PRESIDENT BUSH CHALLENGED THE CONGRESS IN MARCH TO PASS COMPREHENSIVE CRIME LEGISLATION WITHIN 100 DAYS. TO NO ONE'S SURPRISE, 100 DAYS PASSED, AND EVEN 200 DAYS CAME AND WENT, AND NO CRIME BILL WAS SENT TO THE PRESIDENT FOR HIS SIGNATURE. THEN, ON THE EVE OF ADJOURNMENT, A LIBERAL CADRE RAILROADED A SO-CALLED "CRIME BILL" THROUGH THE CONFERENCE COMMITTEE.

THIS CONFERENCE BILL, OR REPORT AS IT IS CALLED IN THE TECHNICAL PARLANCE, IS A "CRIME BILL" IN NAME ONLY.

THE MEDIA HAS MISTAKENLY CAST THE DIFFERENCES BETWEEN THE CONFERENCE REPORT AND THE PRESIDENT'S BILL AS MERELY A QUESTION OF RELATIVE TOUGHNESS. THEY VIEW IT AS SIMPLY A MATTER OF DEGREE AS TO WHICH BILL GOES FARTHER IN THE DIRECTION OF REFORM.

THIS CHARACTERIZATION IS ABSOLUTELY INCORRECT. THE TWO BILLS GO IN COMPLETELY OPPOSITE DIRECTIONS. THE PRESIDENT'S BILL GOES IN THE DIRECTION OF FURTHER REFORM. THE CONFERENCE REPORT GOES BACKWARDS.

INDEED, THE CONFERENCE REPORT SEEKS TO OVERRULE AT LEAST 20 SUPREME COURT DECISIONS THAT ARE FAVORABLE TO LAW ENFORCEMENT. THESE ARE DECISIONS RECENTLY HANDED DOWN BY THE BURGER AND REHNQUIST COURTS.

BY REVERSING THE EFFECT OF THESE CASES, THE LIBERAL CONFEREES ARE ATTEMPTING TO TURN BACK THE CLOCK TO THE DAYS OF THE WARREN COURT THROUGH THE LEGISLATIVE PROCESS. HOW CAN ANYONE SAY THAT A BILL WHICH OVERTURNS 20 SUPREME COURT DECISIONS FAVORABLE TO LAW ENFORCEMENT IS A "CRIME BILL"?

THE CONFEREES' PROPOSAL REGARDING HABEAS CORPUS TELLS THE WHOLE STORY. IT IS ILLUSTRATIVE OF THE LEGISLATIVE SLEIGHT-OF-HAND CONTAINED AT WORK IN THE BILL. RATHER THAN PLACE REASONABLE LIMITS OF SUCCESSIVE HABEAS PETITIONS, THE CONFERENCE REPORT PROVIDES GREATER OPPORTUNITY FOR A DEFENDANT TO CHALLENGE HIS CONVICTION AND SENTENCE THAN IS NOW AVAILABLE UNDER CURRENT LAW. IT REQUIRES STATES TO PAY FOR SKILLED COUNSEL (NOT PICKED BY THE COURTS BUT BY THE CRIMINAL DEFENSE BAR) IN ALL PHASES OF A CAPITAL CASE, INCLUDING POST-APPEAL LITIGATION, WITH NO BENEFIT TO THE STATES IN THE WAY OF GREATER FINALITY OF PROSECUTIONS.

THE CONFEREE'S LANGUAGE BROADENS THE OPPORTUNITY FOR ABUSE BY OVERRULING TEAGUE V. LANE, A LANDMARK DECISION IN 1989, AND MURRAY V. CARRIER, A 1986 CASE. IN TEAGUE, THE COURT, IN ADDRESSING THE ISSUE OF RETROACTIVITY, ESTABLISHED THE PRINCIPLE THAT A NEW RULE OF LAW (ONE NOT DICTATED BY THE LEGAL PRECEDENT AT THE TIME OF THE DEFENDANT'S CONVICTION) WOULD NOT APPLY TO CASES THAT HAVE ALREADY BEEN DECIDED. TO DO SO WOULD RESULT IN A WHOLESALE REVERSAL OF BROAD CATEGORIES OF CONVICTIONS -- EXTENDING BACK DECADES.

AND IN MURRAY V. CARRIER, THE COURT HELD THAT ALLEGED COUNSEL ERROR IN FAILING TO RAISE A CLAIM IN STATE PROCEEDINGS DOES NOT AUTOMATICALLY JUSTIFY RAISING IT FOR THE FIRST TIME IN FEDERAL HABEAS REVIEW. IN THIS WAY, THE COURT CLOSED THE DOOR ON

THE GAME OF "SANDBAGGING" STATE PROSECUTORS IN FEDERAL DISTRICT COURT.

IN STARK CONTRAST TO THIS PROVISION STANDS THE PRESIDENT'S HABEAS CORPUS REFORM PROPOSAL. THE PRESIDENT ADOPTS THE STRUCTURE FOR REFORM PUT FORWARD BY RETIRED SUPREME COURT JUSTICE LEWIS POWELL'S STUDY COMMITTEE. IT CALLS FOR AN "OPT-IN" SYSTEM FOR THE STATES IN WHICH THEY WOULD RECEIVE A SUBSTANTIAL DEGREE OF FINALITY IN STATE CRIMINAL CASES IN EXCHANGE FOR THEIR PROVISION OF SKILLED COUNSEL FOR HABEAS PETITIONS. THIS OPTIONAL SYSTEM WOULD REQUIRE DEFENDANTS TO PUT ALL OF THEIR CLAIMS IN ONE FEDERAL PETITION, WITH THE SOLE NARROW EXCEPTION OF NEW CLAIMS WHICH CAST DOUBT ON THE DEFENDANT'S GUILT.

LET ME GIVE YOU ANOTHER EXAMPLE OF THE REGRESSIVE NATURE OF THE CONFERENCE REPORT. WITHOUT SO MUCH AS A HEARING ON THE SUBJECT, LIBERAL MEMBERS FORCED THROUGH A PROVISION THAT OVERTURNS ARIZONA V. FULMENANTE. THIS RECENT SUPREME COURT DECISION HELD THAT INVOLUNTARY CONFESSIONS COULD BE HARMLESS ERROR IF THERE IS AMPLE INDEPENDENT EVIDENCE OF THE DEFENDANT'S GUILT. THE PRACTICAL EFFECT OF LEGISLATIVELY OVERTURNING THIS CASE WOULD BE TO GIVE AN AUTOMATIC REVERSAL TO A CONVICTED KILLER, RAPIST, OR DRUG TRAFFICKER ON THE BASIS OF AN IMPROPER ADMISSION OF HIS STATEMENT, EVEN WHERE THE INDEPENDENT EVIDENCE OF GUILT IS OVERWHELMING, AND IT IS SHOWN BEYOND A REASONABLE

DOUBT THAT THE OFFENDER WOULD STILL HAVE BEEN CONVICTED IF THE IMPROPER ADMISSION HAD NOT OCCURRED.

THIS CONFERENCE REPORT MARKS THE HEIGHT OF POLITICAL CYNICISM. THE PROPONENTS OF THIS PRO-CRIMINAL LEGISLATION BELIEVE THEY ARE IMMUNE FROM CRITICISM BECAUSE THEY SAY THAT ANY EXPLANATION OF THE BILL'S WEAKNESSES WOULD TAKE MORE THAN A 30 SECOND SOUND BITE WILL ALLOW. THEY ALSO USE MEANINGLESS AUTHORIZATIONS OF GRANT MONIES TO STATE AND LOCAL LAW ENFORCEMENT TO INDUCE LAW ENFORCEMENT TO ACCEPT DEFEAT ON THE SUBSTANCE OF THE BILL.

AT THE JUSTICE DEPARTMENT, WE KNOW THAT STATE AND LOCAL LAW ENFORCEMENT AGENCIES ARE HURTING FOR MONEY TO COMBAT CRIME. BUT LET'S BE CLEAR, A \$3.3 BILLION AUTHORIZATION OF FUNDING WHERE THERE IS NO APPROPRIATION OF THESE GRANTS (IN OTHER WORDS NO SEPARATE ACT OF CONGRESS TO ACTUALLY SPEND THIS MONEY) IS NOTHING BUT ELABORATE WINDOW DRESSING. IT'S FUNNY MONEY. OR IT IS WHAT THE WALL STREET JOURNAL CALLS "THE BAIT AND SWITCH:" BAIT WITH MONEY -- SWITCH THE LAWS.

THE IRONY OF THIS FISCAL CAMOUFLAGE FOR A PRO-CRIMINAL CRIME BILL IS THAT CONGRESS REFUSED THIS YEAR TO FULLY FUND THE PRESIDENT'S BUDGET REQUEST FOR LAW ENFORCEMENT. INSTEAD, IT WAS SLASHED BY \$472 MILLION -- A 64% CUT IN THE INCREASES SOUGHT BY FEDERAL LAW ENFORCEMENT AND THE PRESIDENT.

WHEN THE CONGRESS RETURNS WE MUST JOIN TOGETHER AND DEFINE CLEARLY WHAT WE CONSIDER TO BE AN ACCEPTABLE CRIME BILL. WE MUST SET FORTH CLEARLY WHAT THE PRINCIPLES OF A TOUGH CRIME BILL ARE. WE MUST INSIST THAT THESE CRITERION BE MET.

IN THIS REGARD, I WOULD SUGGEST THAT THERE ARE AT LEAST 5 PRINCIPLES THAT MUST BE FOLLOWED BY THE CONGRESS IN ORDER TO SATISFY THE NEEDS OF LAW ENFORCEMENT, VICTIMS, AND THE LAW-ABIDING CITIZENS WHO STAND BEHIND US.

THE FIRST PRINCIPLE: A TOUGH CRIME BILL CANNOT INCLUDE PROVISIONS WHICH OVERTURN PRO-LAW ENFORCEMENT COURT DECISIONS. IT SHOULD BE PERFECTLY OBVIOUS; REAL, EFFECTIVE, MEANINGFUL CRIME LEGISLATION -- BY DEFINITION -- SHOULD NOT UNDO WHAT THE COURTS HAVE ALREADY DONE TO HELP LAW ENFORCEMENT.

THE SECOND PRINCIPLE: AN ACCEPTABLE CRIME BILL IS ONE THAT HELPS LAW ENFORCEMENT FIND THE TRUTH IN THE PROSECUTION OF THOSE ACCUSED OF VIOLENT CRIMES. IN PARTICULAR, WE ARE ALL AWARE OF HOW THE EXCLUSIONARY RULE CAN SERVE AS A LEGAL ESCAPE HATCH THAT RETURNS CRIMINALS TO THE STREETS. THE PRESIDENT'S PROPOSAL TO END THE MOST EGREGIOUS EFFECT OF THIS RULE BY ALLOWING EVIDENCE SEIZED IN GOOD FAITH TO BE USED IN PROSECUTIONS IS A COMMON SENSE WAY OF FULFILLING THIS SECOND PRINCIPLE.

THE THIRD PRINCIPLE: A TOUGH CRIME BILL MUST PROVIDE FOR ADEQUATE PUNISHMENT FOR VIOLENT CRIMINALS. AS I HAVE ALREADY SAID, TO ENSURE PUBLIC SAFETY, WE MUST PUT VIOLENT CRIMINALS IN JAIL, AND KEEP THEM THERE. WE NEED STIFF MANDATORY PENALTIES FOR CRIMINALS WHO USE FIREARMS. ADDITIONALLY, IT IS IMPERATIVE THAT WE RESTORE THE FEDERAL DEATH PENALTY AS A MEANINGFUL SANCTION.

THE FOURTH PRINCIPLE: A PRO-LAW ENFORCEMENT CRIME BILL MUST ENHANCE THE FINALITY OF THE CRIMINAL JUSTICE PROCESS. WE NEED REFORMS WHICH GUARANTEE THAT JUSTICE WILL BE DONE, ESTABLISH A CRIME VICTIM'S RIGHT TO FINALITY, AND SPARE SURVIVORS THE TORTURE OF REPEATED JUDICIAL REPLAYS OF THE CRIME. THE AMERICAN PEOPLE SENSE OUR CRIMINAL JUSTICE SYSTEM IS FAILING BECAUSE CRIMINALS EVADE JUSTICE THROUGH REPETITIVE REVIEWS -- LONG AFTER DIRECT APPEALS HAVE RUN OUT AND THERE IS NO QUESTION ABOUT GUILT.

FINALLY, THE FIFTH PRINCIPLE IS THAT A REAL CRIME BILL CANNOT CONTAIN FUNNY MONEY. A "TOUGH" CRIME BILL DOESN'T LURE WITH A MIRAGE OF DOLLARS WHICH WILL NEVER MATERIALIZE ON THE FRONT LINES OF LAW ENFORCEMENT. IT SHOULD NOT DANGLING MEANINGLESS GRANT MONIES BEFORE THE EYES OF LAW ENFORCEMENT AS A SUBSTITUTE FOR FUNDAMENTAL CRIMINAL JUSTICE REFORM.

CHICAGO ATTORNEY GENERAL BARR HITS LIBERALS ON CRIME

St. Louis Post-Dispatch (Missouri)

December 19, 1991, THURSDAY, ILLINOIS THREE STAR Edition

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Body

Attorney General William P. Barr told Illinois prosecutors Wednesday that liberal forces in Congress want a return to the "permissive" days of the 1960s when violent crime began a steep increase across the nation. Barr, who avoided direct attacks on Democrats, said prosecutors must join together to nudge state and federal legislators to adopt strict anti-crime measures. "The spiraling crime rate of the '60s and '70s was arrested" under Presidents Reagan and Bush, Barr said. "The 1980s held the line on violent crime. This is an achievement, and it occurred at the height of the drug crisis. Now, where do we go in the '90s?" The crime bill that Democrats assembled in the U.S. House in November, Barr said, would have returned the coming decade to the days of the Warren Court, which he said expanded the rights of inmates and criminal defendants. Senate Republicans killed the bill after it passed the House. AP CHICAGO Authorities Will Give Killed Hog To Needy A 225-pound pig that ran loose on a highway, clogging traffic until it rolled over and died, will be fed to the needy, authorities said. The black pig fell off a truck Tuesday afternoon on Interstate 90-94. Traffic stopped as state troopers chased the northbound hog through four southbound lanes. The chase ended when the hog, dying from an apparent heart attack, flipped over, state trooper Fred Hosteny said. Officials donated the pig to the Salvation Army's food pantry and said it could feed up to 60 people.

AP MISSOURI LEGISLATURE Strict Bill On Abortion Filed For '92 Session A bill that would make it a crime to perform an abortion except when the mother's life is in danger was filed Wednesday for the 1992 Legislature. One of the sponsors, state Rep. Ted House, D-St. Charles, said that under the bill anyone who performs or attempts to perform an abortion would be charged with a felony. Leaders of Missouri Right to Life and Feminists for Life of Missouri praised the bill. "The bottom line is it's a child, not a choice, that we are talking about," said Missouri Right to Life President Carol Scoville. Abortion-rights activists called the bill demeaning and dubbed it the most restrictive anti-abortion legislation in the nation because it contains no outright exception for rape and incest. Karen Decker, head of the Missouri Alliance for Choice, called the proposal a "back-alley abortion bill." TRAIN SERVICE Help Sought To Set Up Chicago-To-Miami Line Promoters of a proposed Chicago-to-Miami passenger rail line said Wednesday they want Congress and the legislatures of the six states the tracks would cross to help establish the service. Resolutions authorizing an interstate compact that would press Amtrak to restore a line it dropped 21 years ago were sent to government leaders in Illinois, Indiana, Kentucky, Tennessee, Georgia and Florida, the Evansville, Ind., Amtrak Task Force announced. The proposed route of the Midwest-to-Southeast line would include Danville, Ill.; Terre Haute and Evansville in Indiana; Madisonville and Hopkinsville in Kentucky; Nashville and Chattanooga in Tennessee; Atlanta; and Jacksonville and Fort Lauderdale in Florida. It would cover its 1,500-mile route in about 25 hours, proponents say. AP

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December 19, 1991

Section: NEWS

EAST ST. LOUIS

AP

A suspended East St. Louis teacher, Lawrence E. Simmons Jr., acknowledged in circuit court in Belleville Wednesday that he could be proved guilty of cocaine possession.

Through his attorney, Thomas M. Daley, Simmons offered no defense in an abbreviated bench trial before Chief Circuit Judge Stephen M. Kernan. The judge found him guilty. Kernan scheduled sentencing for Jan. 21.

Simmons, 39, of the 700 block of North 79th Street in East St. Louis, was charged in August with possession of less than 15 grams of cocaine, the least serious drug felony in Illinois.

He could be sent to prison for up to three years, but defendants with no serious criminal record usually get probation.

CHICAGO

ATTORNEY GENERAL BARR

HITS LIBERALS ON CRIME

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Barr, who avoided direct attacks on Democrats, said prosecutors must join together to nudge state and federal legislators to adopt strict anti-crime measures.

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CHICAGO

AUTHORITIES WILL GIVE

KILLED HOG TO NEEDY

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TRAIN SERVICE

HELP SOUGHT TO SET UP

CHICAGO-TO-MIAMI LINE

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"With this compact, it will allow us to garner a little more clout than we've ever had before," said William H. Miller, chairman of the local passenger train task force.

Briefs/Region COLUMN

--- Index References ---

Company: SALVATION ARMY

News Subject: (Legal (1LE33))

Region: (Indiana (1IN12); Kentucky (1KE38); North America (1NO39); Florida (1FL79); Tennessee (1TE37); Americas (1AM92); Illinois (1IL01); USA (1US73))

Language: EN

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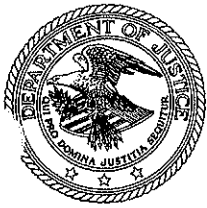
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NewsRoom



Office of the Attorney General
Washington, D. C. 20530

SPEECH

BY

WILLIAM P. BARR

ATTORNEY GENERAL OF THE UNITED STATES

AT THE

BOYS AND GIRLS CLUBS OF AMERICA RECOGNITION LUNCHEON

NEW YORK CITY

DECEMBER 11, 1991

Good afternoon, and thank you for those kind words. I am pleased to be here today to salute the achievements of so many of America's youngsters, many of whom have managed to prevail against daunting odds. I am also glad to join in paying tribute to the officers and backers of the Boys and Girls Clubs of America. It's a pleasure to honor George Grune and Dwayne Andreas. They are in charge of large corporate operations, and yet they still find time to spend working on behalf of America's youth.

They, and all of you here today, have a strong sense of community. The spirit of volunteerism and sacrifice for the sake of the community has been a part of American values from the very beginning of this country's history. There has always been a sense here in America of community responsibility, a belief that the community consists of more than mere individuals, that there must be the willingness to work together, for the common good.

President Bush has said that, "From now on in America, any definition of a successful life must include serving others." I fully agree with him, and obviously, so do you.

Americans are probably the most charitable people in the world. In the 1980s, a period some have characterized as a

"decade of greed," charitable contributions in America rose steadily. Actually, the rise wasn't really steady, it was spectacular. In 1980, for example, all charitable contributions in America totalled \$48.73 billion. By 1990, that figure had risen to \$122.57 billion--an increase of over 250%.

America's generosity is richly represented today by those of you present. You give not only money, but time and energy to work on behalf of the neediest and most vulnerable among us--the young children living in public housing.

A primary reason these children are at such risk is that many of them do not have the benefits of a strong family. The traditional family has always been the foundation of American society. Sadly, that unit has been under a good deal of stress as of late.

Today, for example, over 27% of all children--more than one-quarter--are born without the benefit of married parents. A full 60% of America's children will spend at least part of their childhood in families with only one parent.

Unfortunately, there is a direct correlation between these figures and juvenile crime. Seventy per cent of juvenile offenders currently in state reform institutions grew up in a household with either only one parent, or no parent at all.

This picture may be bleak, but it is by no means hopeless. From the very start, Americans and their forbears understood that society must create the means by which values are instilled in its citizens. Chief among them have been churches, civic groups, and other community-minded organizations--such as Boys and Girls Clubs of America. These organizations can help to fill the gap left by these depleted homes. They have always enriched America. Nowadays, they are needed as never before.

Edmund Burke called these organizations "little platoons"--the associations and affiliations we form as individuals within society. Our colleagues, our friends, and our neighbors constitute our own little platoons. They are the islands of stability in the sea of chaos that life so often is--especially for underprivileged children.

The little platoons in today's society have quite a job to do. There's an old cliché that it's tough to be a kid, but I have to think that it's tougher these days than it's ever been. Let's face it--the problems facing kids today, especially in our inner city neighborhoods are a lot worse than those of generations past. The destructive and dangerous combination of drugs, gangs, and violent crime create an environment where life is cheap, and death is frequently just around the corner.

In too many of America's cities, we are seeing the emergence of a culture of violent -- violent crime is seen as inevitable, a normal means of transacting day to day business. We saw a particularly vicious example of this culture of violence recently in Washington. The charge is that a nineteen year old named Henry James, nicknamed "Little Man", decided, apparently for no reason at all, other than that he felt like it, to kill someone; he randomly pointed his gun at a passing car and fired, murdering a young mother named Patricia Lexie.

We also saw it in the Central Park "Wilding" incident, where a young woman was horribly brutalized, and very nearly murdered by a gang of thugs that called themselves a "Wolf Pack." When asked why he took part in this atrocity, one of them responded, "It was fun."

Fun. When one hears of such horrors, one wonders, Where did these children get such ideas? Where in the world did they learn such values? The answer is, quite literally, nowhere. These children are growing up in a moral vacuum. The political philosopher Thomas Hobbes warned of what he called the state of nature--a society without laws, guiding principles, and ethical values. He said that life in such a state would be "solitary, poor, nasty, brutish, and short." He also said that there would be a "continual fear and danger of violent death."

That sounds to me like an uncomfortably good description of what our inner-city kids face today. It sounds like the Culture of Violence that produces Little Man, the Wolf Pack, and gun-toting adolescents.

Yes, it's tough to be a kid these days.

I said before that the basic unit of human society has always been the family.

It was primarily in the family where values were instilled;

It was in the family where a sense of responsibility was cultivated;

It was in the family where good citizens were molded.

With the traditional family in such decline, those values, so essential to a good society, are frequently not being passed on at all.

Fortunately, there are those little platoons to help us out. Communities develop them in response to society's needs. One of them, for many decades, has been the Boys and Girls Clubs. These

clubs have been a haven for troubled youngsters, a safe refuge from the danger and destruction of the street.

The Department of Justice has long been a strong supporter of the Boys and Girls Clubs of America. Through the Office of Juvenile Justice and Delinquency Prevention and other Justice agencies, we have been working closely with the Boys and Girls Clubs of America to address the needs of America's inner-cities.

The grant we are awarding today will expand the number of clubs in public housing projects all over the country. These projects are where the Clubs are the most-needed. The traditional little platoons in these neighborhoods are either under mortal attack, or they simply don't exist anymore.

If we are to reclaim American cities from the clutches of violent criminals, we need to roll up our sleeves together.

Law enforcement alone cannot reclaim our cities from the clutches of violent crime. Nor can law enforcement ever replace the instillation of values in our communities. Only an approach combining tough law enforcement with physical, moral and educational revitalization of high-crime areas offers the prospect of a safer America.

Both law enforcement and social programs are essential, and they must work together, mutually reinforcing one another. Law enforcement is not a substitute for social programs, and social programs cannot be pursued instead of--or at the expense of--aggressive law enforcement policies.

If it is true to say that law enforcement can't do the job alone, it is even truer to say that social programs can't do the job alone.

There are at least two reasons why this is true. The first should be quite apparent--you simply cannot have social progress amid chaos. No society has ever emerged, progressed, or renewed itself without order.

It makes no sense to put a "model school" in an inner-city neighborhood if that neighborhood is a combat zone where students are shot on their way to school. When drugs and gangs terrorize our children in school, they cannot possibly be expected to learn and prepare themselves for the future.

Job training programs are of little use when the trainees are afraid to leave their homes.

I recently received a report from a Justice Department official who had travelled to Chicago. He visited the Cabrini

Green Housing Project, where a number of educational programs are underway. Unfortunately, the crime problem there is so bad that the parents are having their children sleep in bathtubs to protect them from stray bullets in gang wars. We now live in an age of armored cribs. Any effort at social rehabilitation will be smothered without aggressive steps to suppress violent crime.

The social policy scholar Karl Zinnsmeister got it right when he observed

Physical safety and psychological security are the foundation--the essential precondition--for a child's health, education, and overall development. A good school, an accessible doctor, a rich library, a 15% increase in the Head Start Budget-- these are of little use to a child sharing an apartment with his mother's abusive, violent, drug-selling boyfriend, or to a child who fears the very sidewalks, or to one who cannot find a safe haven even in the classroom. In failing to insulate our children from criminal activity, we are jeopardizing the future of millions of American youngsters.

The second reason why law enforcement is an essential part of the solution is perhaps more subtle, but it is just as important. A healthy respect for the rule of law is one of the most important values we can instill in our communities. Having rules and imposing punishment for breaking them is absolutely fundamental for moral development. This respect for the law engenders a respect for our fellow citizens. It becomes a

rallying point for the little platoons that define our communities and enrich our lives.

It is this essential relationship between law enforcement and social restoration that has led to the development of what we at the Department of Justice call "Weed and Seed." This program is more than just another spending proposal; it is a new method of operating. It involves the integration of Federal, State and local law enforcement activities on a community basis--and then the integration of those law enforcement efforts with a broader program of community revitalization.

I am delighted that Boys and Girls Clubs will be targeting a large portion of its grant money to housing projects associated with "Weed and Seed" efforts. I can think of no better "seed" effort than the Boys and Girls Clubs.

As Attorney General, I take heart in knowing that Boys and Girls Clubs are helping us out in the battle against crime by working in public housing neighborhoods. As President Bush has said the Clubs are "a valuable ally in our nation's fight against substance abuse and gang violence."

For all of the fine work done by the Boys and Girls Clubs of America, you are due a large debt of gratitude. I commend your sense of social responsibility and your generosity. Speaking on

behalf of the U.S. Department of Justice, I promise you that we will do our part. And we will take great encouragement in knowing that you are doing yours. Thank you.

I am delighted at this time to ask Jerry Milbank, Arnie Burns, and Tom Garth to join me as I present to the Boys and Girls Clubs of America this check for two-million, five-hundred thousand dollars.

Drugs warning

The Independent (London)

December 5, 1991, Thursday

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Section: HOME NEWS PAGE; Page 2

Length: 88 words

Body

Judge Robert Bonner, head of the US Drug Enforcement Agency, said 14 tonnes of cocaine were seized in Europe and the UK last year, up from "virtually nothing" six years ago. He said it could take two or three years before Britain saw the "full devastating effects cocaine causes". He was speaking after William Barr, the US Attorney General, presented the Metropolitan Police Commissioner Sir Peter Imbert with a cheque for pounds 1.3m, the proceeds seized during Anglo-American investigations into money-laundering.

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12/4/91 AP Online 00:00:00

AP Online

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December 4, 1991

Section: International

U.S. Shares Laundered Drug Money with Britain

LONDON

U.S. Attorney General William Barr delivered a \$2.4 million check to Scotland Yard on Wednesday in recognition of British detective work in uncovering extensive money-laundering networks in the Caribbean.

It marked the first time the Drug Enforcement Administration made such a payment of seized assets to British police.

Home Office Secretary Kenneth Baker said, "Drug trafficking is an international phenomenon and the success of this particular investigation shows that it pays for countries to work together in the battle against the drugs menace."

Barr said stripping traffickers of assets and reinvesting these resources in law enforcement enables authorities to step up the attack on drug running. The money will go toward fighting drugs, British officials said.

The money comes from \$380 million seized during a joint investigation of the laundering of proceeds from a 1983 robbery. Gold bullion, platinum, diamonds and travelers checks worth \$46 million were stolen from a Brinks-Mat warehouse near London's Heathrow airport on Nov. 26, 1983.

Inquiries led investigators to the Isle of Man, the British Virgin Islands and a Miami-based lawyer who handled drug money from major U.S. traffickers. The pursuit expanded into other parts of the Caribbean, leading to prosecutions of other drug organizations.

---- Index References ----

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November 27, 1991

Section: NATION

BARR VOWS FAIRNESS AS ATTORNEY GENERAL

Jerry Seper THE WASHINGTON TIMES

William P. Barr, pledging to administer the Justice Department "fairly and evenhandedly," was sworn in yesterday as the nation's 77th attorney general.

"We as a nation are fortunate to have in this Department of Justice thousands of dedicated men and women who, day in and day out, without much fanfare and often with little recognition, do the tough job of upholding the law," Mr. Barr said during swearing-in ceremonies.

"They work hard, often at great personal sacrifice," he said. "And I am proud to be associated with the men and women of this great department, and I am honored to lead them."

Mr. Barr, the former deputy attorney general who was nominated by President Bush in September, succeeds Dick Thornburgh, who resigned to run - unsuccessfully - for a U.S. Senate seat in Pennsylvania.

Mr. Bush was among the crowd of well wishers who attended the swearing-in ceremony.

"Today America gives new responsibilities to a young man of outstanding character and achievement," Mr. Bush said. "As always, Shakespeare's words help us sum up the man: 'Young in limb, in judgments, old.' "

Mr. Bush, who was Mr. Barr's first boss in government when he was CIA director and Mr. Barr worked as a China analyst for the agency, said the new attorney general has "never hesitated to speak his mind and to offer honest, solid legal advice."

"He has fostered a strong sense of teamwork that draws the best out of our professionals at the Justice Department," Mr. Bush said. "Bill's leadership has brought about recent successes in prosecuting savings and loan fraud, in resolving the Talladega hostage crisis, and indicting the terrorists who plotted the Pan Am bombing."

Mr. Bush said the Justice Department, under Mr. Barr, will have four major enforcement priorities: drugs, violent crime, civil rights laws and white-collar crime.

"I am confident that Bill Barr possesses an abundance of every quality that makes a great attorney general," Mr. Bush said. "He is tough. He is fair-minded, a man of integrity, of intense dedication, and it's true that I have ordered Bill to go all out in fighting crime, but I've left the details to him."

The oath of office was administered by U.S. Appeals Court Judge Lawrence Silberman.

Mr. Barr won widespread, bipartisan support on Capitol Hill during confirmation hearings earlier this month and was approved by the Senate on a voice vote after 21 minutes of floor debate.

The 41-year-old New York native attended night law school at George Washington University. He graduated in 1977, second in a class of 297.

G0027712-112791

PHOTO

Photo, President Bush and new Attorney General William Barr wave at the swearing-in yesterday., By AP

---- **Index References** ----

News Subject: (Judicial (1JU36); Legal (1LE33))

Region: (USA (1US73); Americas (1AM92); North America (1NO39))

Language: EN

Other Indexing: (AP; CIA; DEPARTMENT OF JUSTICE; GEORGE WASHINGTON UNIVERSITY; JUSTICE DEPARTMENT; PAN AM; PHOTO; SENATE; TALLADEGA; US APPEALS COURT; US SENATE) (Barr; BARR VOWS; Bill; Bill Barr; Bush; Dick Thornburgh; Lawrence Silberman; Shakespeare; Today America; William Barr; William P. Barr)

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NewsRoom

THOMAS JOINS COLLEAGUES ON SUPREME COURT BENCH

Los Angeles Times

November 2, 1991, Saturday, Home Edition

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Section: Part A; Page 19; Column 1; National Desk

Length: 445 words

Byline: JA

By DAVID G. SAVAGE, TIMES STAFF WRITER

Dateline: WASHINGTON

Body

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The Supreme Court brought a dignified end Friday to the most raucous confirmation struggle in its history with a brief ceremony in which Justice Clarence Thomas took his seat with his eight black-robed colleagues.

The courtroom ceremony began with Acting Atty. Gen. William P. **Barr** presenting a proclamation from President Bush appointing "Clarence Thomas of Georgia" to the Supreme Court. The new justice was then escorted up to the bench where, with Chief Justice William H. Rehnquist presiding, he took an oath to "faithfully and impartially discharge" his duties.

As Thomas took his seat on the nine-member court, Rehnquist wished him "a long and happy career in our common calling."

The five-minute ceremony briefly brought together many of the key figures in the televised hearings into an accusation that Thomas had sexually harassed former aide Anita Faye Hill. His wife, Virginia, and his prime sponsor, Sen. John C. Danforth (R-Mo.), sat in the front row. Nearby were Republican Sens. Orrin G. Hatch of Utah and Arlen Specter of Pennsylvania, who vigorously defended Thomas during the Judiciary Committee hearings.

Also seated near the front were Senate Republican leader Bob Dole of Kansas and former White House Chief of Staff Kenneth M. Duberstein, who advised Thomas throughout the confirmation fight.

After the ceremony, Thomas and Rehnquist walked down the sweeping marble steps of the Supreme Court for the benefit of the assembled photographers. The new justice could not entirely escape the bitter confirmation fight as hecklers from the street shouted out: "Down with the male supremacist court."

Thomas smiled for the cameras, but paused only briefly, telling reporters he was "ready to go to work."

The new justice then walked back into the court building for his first conference. On Friday mornings, the justices review the several hundred appeals that have arrived in recent weeks and decide which are worthy of a full hearing and a written decision.

On Monday morning, the court will issue a list of orders granting reviews to a few of the cases and rejecting without comment all the rest. The justices on Wednesday will hear arguments in a key case involving school graduation prayers in which the now more-conservative court is being asked to allow more religion in the schools.

DOUGLAS RATHBUN

THOMAS JOINS COLLEAGUES ON SUPREME COURT BENCH

Since Thomas took a private oath at the court on Oct. 23, he has reportedly made the rounds of the building and met with each of the justices, both to get acquainted and to learn about the operation of the court.

He is also getting comfortable in his new chambers. As he sat alone reading one recent afternoon, he puffed away on a large cigar.

Graphic

Photo, New Justice Clarence Thomas signs copy of oath before Justice Byron R. White, left, and Chief Justice William H. Renquist. Other justices at rear from left: David H. Souter, Antonin Scalia, Sandra Day O'Connor, John Paul Stevens, Anthony M. Kennedy. Justice Harry A. Blackmun is not pictured. Associated Press

Classification

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Person: CLARENCE THOMAS (90%); GEORGE W BUSH (58%); ORRIN HATCH (56%); ARLEN SPECTER (56%)

Geographic: KANSAS, USA (79%)

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The Washington Post

Barr to Be Named Attorney General to Succeed Thornburgh

By John E. Yang
and Sharon LaFraniere
Washington Post Staff Writers

President Bush said yesterday he would nominate acting Attorney General William P. Barr, who has been running the Justice Department since Dick Thornburgh returned to Pennsylvania two months ago to run for the Senate, to take the job permanently.

While the timing of the announcement was a surprise—a Rose Garden ceremony honoring federal law enforcement officials—the selection was not. Barr, described as a pragmatic conservative with good political instincts, was “the leading candidate all along” for the job, White House press secretary Marlin Fitzwater said.

He is “Bush’s kind of guy. He’s smart, political, aggressive without being obnoxious and does not grandstand,” another administration official said. Barr, 41, would be the youngest attorney general since Ramsey Clark in 1967.

Bush called Barr “a thorough professional, a defender of individual rights and a person absolutely committed to this fight against crime.”

The president, impressed by Barr’s handling of a prisoner uprising at the Talladega Federal Correctional Institution in Alabama in August, added: “He’s been tested by fire.”

“I’m honored that you have selected me,” responded Barr, who was told he had been chosen 45 minutes before the announcement. “What makes it a particular honor is the opportunity to serve a president who is such a strong supporter of law enforcement.”

Administration officials, described as “exhausted” by the battle over the nomination of Clarence Thomas to the Supreme Court, wanted to wait until that was over before sending another nominee to the Senate.

As it is, the administration still



In a Rose Garden surprise, Bush announces selection of William P. Barr, left.

faces a fight over the nomination of Robert M. Gates, Bush’s deputy national security adviser, to run the Central Intelligence Agency. The Senate Select Committee on Intelligence is to vote on Gates Friday.

Senate Judiciary Committee Chairman Joseph R. Biden Jr. (D-Del.) pledged “fair and thorough hearings” for Barr. Committee Democrats, embittered by committee Republicans’ treatment of Anita F. Hill, who alleged Thomas sexually harassed her, could question Barr about the Justice Department’s role

in digging up information that Sen. Orrin G. Hatch (R-Utah) used at the hearing to suggest that Hill fabricated her testimony.

Justice Department attorneys used a computer search to find a federal court decision that mentioned “Long Dong Silver” and recalled a reference to pubic hair in a drink in

the novel, “The Exorcist,” according to congressional aides.

In addition, Barr could face questions about the legal opinions he wrote that sanctioned the assignment of U.S. military forces to law

enforcement operations overseas, used by the administration in planning the December 1989 invasion of

Panama that led to the arrest of Panamanian dictator Manuel Antonio Noriega. Barr also wrote a controversial opinion saying that the president has the authority to order the FBI to arrest fugitives in foreign countries without the consent of those governments.

Barr was selected over candidates with more political backgrounds, including Missouri Gov. John Ashcroft (R) and former California governor George Deukmejian (R). In the end, it came down to a choice between Barr and Transportation Secretary Samuel K. Skinner, according to administration officials.

His nomination was welcomed by conservative legal groups. “He has been a consistent conservative voice within the administration,” said Clint Bolick of the Institute for Justice. “He’s not a crusader . . . but give him a legal issue and he will generally come down on the conservative side.”

cont'd.

Acting Justice Dept. Chief Named Attorney General

By DOUGLAS JEHL
TIMES STAFF WRITER

WASHINGTON—A day after a bruising victory for his Supreme Court nominee, President Bush on Wednesday nominated William J. Barr to become the next attorney general, choosing a respected 41-year-old conservative who seems unlikely to spark another bitter confirmation battle.

In selecting the Justice Department's No. 2 official to fill the void left since the resignation of Dick Thornburgh, Bush praised Barr for having withstood a test of fire in the more than two months he has served as the agency's acting chief.

The impromptu announcement at an otherwise routine ceremony appeared to reflect Bush's determination to shift the nation's attention from the unsettling and, for some, still unresolved charges in-

volving the soon-to-be Supreme Court Justice Clarence Thomas.

Only a few hours earlier, Bush criticized the steps taken by the Senate in investigating the Thomas case as "simply not fair" and vowed to propose a series of reforms to guarantee better treatment for future nominees.

In passing over a long list of politicians to appoint "a thorough professional," Bush appeared to guarantee that his choice would be spared the grueling inquisition to which Thomas and Robert M. Gates, the as-yet-unconfirmed designee as head of the CIA, have been subjected.

At the Senate Judiciary Committee, whose members and staff were still recovering from the 107-day Thomas ordeal, key Democratic aides said that they knew of nothing that would prevent Barr from

winning swift confirmation.

For Barr, the nomination culminates what has been a meteoric rise through the ranks of government, where his close connections to the White House and tough negotiating style have won him a reputation within the Administration as a powerful conservative force.

Barr is best known at the Justice Department as the author of a 1989 legal opinion, the details of which are still secret, contending that U.S. agents can make arrests overseas without the permission of foreign governments. He also drafted an opinion used to justify

the arrest by U.S. military forces of then-Panamanian dictator Manuel A. Noriega.

As deputy and then acting attorney general, Barr has played a major role in blocking a proposal that would permit more AIDS-infected persons to enter the United States and is regarded at the White House as a hard-liner on matters involving civil rights.

Earlier, as an adviser to Bush's 1988 campaign, Barr assisted in the process that helped select then little-known Sen. Dan Quayle of Indiana for the No. 2 slot on the Republican ticket.

But even his critics have praised

Barr's performance as the day-to-day manager of the Justice Department during the stormy Thornburgh tenure and as an acting chief who distinguished himself when he directed the Aug. 31 rescue of nine hostages held for 10 days by armed Cuban inmates at a federal prison in Talledega, Ala.

The successful assault by an FBI hostage-rescue team followed days of careful planning by a Barr-led team in the culmination of a high-stakes showdown that Bush said meant that his future attorney general had been "tested by fire."

"I was proud of him then, and I'm proud today," Bush said in announcing the Barr nomination at a Rose Garden ceremony convened to honor other Justice Department officials. In brief remarks, Barr said

that he looked forward to leading an agency committed to "enforcing the law in an even-handed way and with integrity."

Justice Department and White House officials expressed hope that confirmation hearings could begin by early next month to give the Senate time to vote on the nomination before the end of the year.

Some White House aides, including Chief of Staff John H. Sununu, were said to have urged Bush to select as his attorney general a well-known politician who might help deliver Republican votes for the President in key states in next year's reelection campaign. Among those mentioned were Transportation Secretary Samuel K. Skinner, Missouri Gov. John Ashcroft and former California Gov. George

Deukmejian.

But White House spokesman Marlin Fitzwater said that Barr was "the leading candidate all along," and another official said that the view within the White House had been that Bush would be best-served by an attorney general unlikely to be controversial.

Thornburgh resigned as attorney general in order to run for the U.S. Senate seat from Pennsylvania.

With the Justice Department expected to come under Democratic criticism for its slow response to the Bank of Credit & Commerce International scandal as well as the savings and loan debacle, "You don't want some meatball in that position," one White House official

said.

Although he has spent fewer than three years at the department, Barr has long had ties to Bush and is regarded as particularly adept at the behind-the-scenes debate in which key policies are shaped.

Sen. Strom Thurmond (R-N.C.), ranking minority member on the Senate Judiciary Committee, which will conduct hearings on the nomination, praised Barr for having done an "outstanding job" at the Justice Department and said his background "will serve him well in this important position." Committee Chairman Joseph R. Biden Jr. (D-Del.) said that the committee would "act promptly to schedule fair and thorough hearings on the nominee."

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October 16, 1991

Section: Washington

URGENT

TERENCE HUNT

WASHINGTON

President Bush today nominated William Barr to be attorney general, saying Barr had been "tested by fire" as acting attorney general in forcing an end to an Alabama prison uprising last summer.

Barr would succeed Richard Thornburgh in the administration's top legal job, if confirmed by the Senate. Barr, 41, is a career government lawyer.

Announcing the selection, Bush called Barr "a thorough professional, a defender of individual rights and a person absolutely committed to this fight against crime."

The timing of Bush's announcement was a surprise, although Barr had been a leading candidate for the post since Thornburgh resigned to run for a U.S. Senate seat from Pennsylvania.

Bush announced Barr's selection at a Rose Garden ceremony honoring members of a Justice Department task force that tracked down a mail bomber who killed a federal judge and a civil rights leader.

The announcement was applauded by law enforcement officers at the ceremony.

Barr has been a top Justice Department official for the last three years. Bush singled him out for his role in the peaceful resolution of riots by Cuban inmates at the Talladega Prison in Alabama. Bush said he was "tested by fire" in that instance.

Bush "just felt it was professionally handled from start to finish," White House spokesman Marlin Fitzwater said.

"I was proud of him then and I am proud today to send Bill Barr's name to the Senate as the next attorney general of the United States," the president said.

Accepting the nomination, Barr said he was honored to be picked.

"What makes it a particular honor is the opportunity to serve a president who is such a strong supporter of law enforcement," Barr said, adding that it was "a great honor to be nominated to succeed a great attorney general like Dick Thornburgh."

Barr said the ceremony where his nomination was announced "clearly shows today we have thousands of dedicated men and women at the Department of Justice who do an exceptional job day in and day out upholding the law, enforcing the law in an evenhanded way and with integrity. I'm proud to be associated with each and every one of them, and if confirmed, proud to lead them."

FBI Director William Sessions, leaving the White House after the announcement, called Barr "a splendid nominee."

As an assistant attorney general in charge of the Justice Department's legal counsel office, Barr wrote the legal opinions that justified the arrest of deposed Panamanian dictator Manuel Noriega. He also wrote a still-secret legal opinion that authorizes FBI agents to kidnap fugitives overseas without getting permission of foreign governments.

Barr is a native of New York City who came to Washington to work at the CIA in 1973. He graduated from Columbia University with degrees in Chinese studies. He worked as a junior staff member in the CIA's legislative affairs office when Congress investigated CIA misconduct. Bush was at the helm of the agency then.

Barr took over as No. 2 at Justice last year; he was just 40.

Since Thornburgh's Aug. 9 resignation, Barr has been on the short list of possible successors. Bush has known him since both worked at the CIA in the mid-1970s.

Barr is generally credited with helping end a period of rough political sledding for Thornburgh, who feuded with Congress and the press.

He has close ties to top White House officials, including White House Counsel Boyden Gray.

As a member of the legal staff to the Domestic Policy Council in

the Reagan White House, Barr worked for Bush's 1988 presidential campaign and left private law practice to join the transition team.

He attended George Washington law school at night while working at the CIA. He won a coveted federal appellate court clerkship with then-Circuit Judge Malcolm Wilkey, a conservative jurist who headed the Office of Legal Counsel at the Justice Department in the Eisenhower administration.

Barr won the job over several more prominent and older Republicans with stronger political credentials. Among others mentioned for the job were Missouri Gov. John Ashcroft, former California Gov. George Deukmejian and Transportation Secretary Samuel Skinner.

Fitzwater called Barr "the leading candidate all along" and said the White House did not expect any problem in getting him confirmed.

Bush "considered a number of candidates. He thought (Barr) was the best candidate. He just happened to be non-political," said Fitzwater.

---- **Index References** ----

News Subject: (Judicial (1JU36); Legal (1LE33); Government (1GO80))

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Bush nominates William Barr for attorney general

By LORI SANTOS

WASHINGTON (UPI) _ Fresh from one bruising confirmation battle, President Bush announced Wednesday he will nominate acting Attorney General William Barr to succeed Dick Thornburgh as head of the Justice Department.

Tapping a career government official in a move almost certain to defuse criticism on Capitol Hill, Bush hailed Barr as "a man that I respect enormously."

But unlike the brutal confirmation battle pitched over Clarence Thomas for the Supreme Court, the White House said it anticipates no obstacles to winning approval for Barr as the nation's 77th attorney general.

"We don't expect any problems," said White House spokesman Marlin Fitzwater.

Bush's selection of Barr, who took over for Thornburgh on a temporary basis last summer when Thornburgh resigned to seek a Senate seat from Pennsylvania, also coincided with his deferral for the moment of any public criticism of the confirmation process that saw the nomination of Thomas nearly derailed by last-minute allegations of sexual harassment.

Though the president definitely "had some ideas" and "is thinking about" ways to reform the increasingly politicized process, Fitzwater said, "I don't expect any comments right away."

In declining to discuss the accusations lodged against Thomas by University of Oklahoma law professor Anita Hill, Bush has promised repeatedly he soon would make his views known.

But in selecting the career official he worked with at the CIA and nominated in May 1990 to be deputy attorney general, Bush should smooth the way before the same Senate Judiciary Committee that weighed the Thomas nomination.

As if to drive that point home to legislators, the president said in his Rose Garden announcement: "I have chosen an individual who is a thorough professional, a defender of individual rights and a person absolutely committed to this fight against crime. And he's also been tested by fire."

If confirmed, Barr would succeed Thornburgh, who is seeking the Senate seat vacated by the death of Sen. John Heinz, R-Pa.

Another controversial nomination, that of Bush's deputy national security adviser, Robert Gates, to head the CIA, is set for a vote Friday in the Senate Intelligence Committee, and Fitzwater expressed the hope the divisiveness generated by those nominations would not spill over.

"Every nomination should be considered on its own merits," he said.

Bush, who offered the job to Barr, 41, in the Oval Office Wednesday morning, waited for the tumultuous Thomas hearings to conclude before announcing the nomination.

It came as somewhat of a surprise, in part because names that have floated in recent months for the post were more political in nature. But Fitzwater said while Bush considered others, Barr "was the leading candidate" from the beginning, mainly because the president has been impressed with his advice while at Justice, as well as when both men worked at the CIA. Barr was a member of the CIA counsel's staff in 1976 when Bush was the agency's director.

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^AP-Attorney General, UPDATE

^URGENT<

^Bush Nominates William Barr to be Attorney General<

^By TERENCE HUNT=

^AP White House Correspondent=

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"I was proud of him then and I am proud today to send Bill Barr's name to the Senate as the next attorney general of the United States," the president said.

Accepting the nomination, Barr said he was honored to be picked.

"What makes it a particular honor is the opportunity to serve a president who is such a strong supporter of law enforcement," Barr said, adding that it was "a great honor to be nominated to succeed a great attorney general like Dick Thornburgh."

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Bush Picks Barr For Attorney General Post

Nominee, With Intelligence Background, Is Regarded As a Tough Conservative

By PAUL M. BARRETT

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON—President Bush nominated as attorney general William Barr, a self-deprecating conservative with experience in intelligence matters and a reputation for hard-nosed dealings with Congress.

Mr. Barr, who has served as acting attorney general since Dick Thornburgh quit the job in August to run for the U.S. Senate from Pennsylvania, represents a choice by the president of competence and continuity over political stature.

Mr. Barr, a veteran of the Reagan administration with strong personal ties to the Bush camp as well, is almost unknown outside of the capital. Yet he was picked over several other candidates with national political standing. At 41 years of age, he is relatively young for the country's top law enforcement post.

The nomination requires confirmation by the Senate, which isn't expected to put up much opposition, especially after the grueling battle over Clarence Thomas's Supreme Court appointment. Mr. Barr, who typically wears a rumpled suit to the office and plays the bagpipes for relaxation, declined to comment, other than to admit it had been "quite a day."

Washington conservatives celebrated the selection, which President Bush announced at the White House, catching Mr. Barr and other administration aides by surprise. "Once in a while, it happens that someone advances without a public relations army," said Michael Uhlmann, Mr. Barr's former boss in the Reagan White House. "Bill is someone who through fortuitous circumstances was thrust into positions of responsibility and proved his merit."



William Barr

In August, Mr. Barr personally supervised the dramatic rescue of nine hostages held in a federal prison in Alabama by Cuban detainees trying to avoid deportation to their homeland. President Bush went out of his way to praise Mr. Barr's ordering a risky pre-dawn raid on the prison by hundreds of federal agents. Privately, the president complimented Mr. Barr for not "grandstanding" about the rescue, according to administration officials.

At yesterday's White House announcement, Mr. Bush said his nominee had been "tested by fire" during the prison uprising. The president called Mr. Barr "a thorough professional, a defender of individual rights, and a person absolutely committed to this fight against crime." At the White House and inside the Justice Department, Mr. Barr has received credit for improving management at the agency, since taking control of day-to-day affairs 16 months ago.

If confirmed, Mr. Barr would take over a department under fire for allegedly failing to pursue the Bank of Credit & Commerce International scandal aggressively. Department officials also are worrying about how to respond to indications of widespread fraud in the insurance and pension industries.

Mr. Barr began his Washington career as a legislative staff member at the Central Intelligence Agency in the mid-1970s, when George Bush headed the CIA. During a period of turmoil and congressional criticism of the agency, Mr. Barr prepared testimony for Mr. Bush and accompanied him to Capitol Hill on several occasions. The two also share an interest in China; Mr. Bush was ambassador to the country and Mr. Barr earned bachelor's and master's degrees in Chinese studies from Columbia University. After Mr. Barr completed his law degree by taking night classes, Mr. Bush recommended him for a prestigious federal court clerkship.

Mr. Barr went to work in 1982 for the Reagan administration's policy-development office and became friendly with Boyden Gray, counsel to then Vice President George Bush. Mr. Gray, who is now White House counsel, supported Mr. Barr for the attorney general's job. Mr. Bush decided on Mr. Barr several weeks ago but kept the choice secret until the Thomas confirmation had been completed, according to administration officials.

Mr. Barr returned to private law practice in the mid-1980s, but quit his partnership in a big Washington firm to work for the 1988 Bush campaign and then the president's transition team. He was named an assistant attorney general in 1989.

Mr. Barr wrote a series of secret legal opinions justifying the December 1989 U.S. invasion of Panama and the arrest by U.S. forces of Manuel Noriega. A strong proponent of executive-branch prerogatives, he also battled with Democratic lawmakers over a separate opinion broadening the Federal Bureau of Investigation's authority to snatch terrorists abroad, without seeking the permission of foreign governments.

As Mr. Thornburgh suffered a series of embarrassing political setbacks, some attributable to his longtime personal staff from Pennsylvania, he turned increasingly to Mr. Barr for help on management problems and eventually promoted him to deputy attorney general.

Other, more politically prominent people who had been considered for the attorney general's job included Missouri Gov. John Ashcroft and former California Gov. George Deukmejian.

—John Harwood contributed to this article.

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New Yorker's Quick Rise in Washington

By Stephanie Saul

WASHINGTON BUREAU

Washington — William Pelham Barr's earliest political memories are of going to the polls in Manhattan with his father, a Republican district leader.

"People used to make jokes when we came to vote because we were the only Republicans in our district," Barr reminisced recently about growing up in the liberal Democratic neighborhood he called home.

Yesterday, the folks back home in Morningside Heights heard that President George Bush had nominated Barr to become the 77th attorney general of the United States.

If he is confirmed by the Senate, the Barr, 41, would be the third-youngest attorney general this century. Robert F. Kennedy was 35 when he took office; Ramsey Clark was 39.

Barr's quick rise to the top-tier Cabinet nomination came partly through his legal savvy, partly through his winning personality, partly by sheer timing, and partly by his lifelong Republican affiliation.

"He's a damn fine lawyer, a superb lawyer," said Mike Uhlman, a former domestic policy adviser to President Ronald Reagan. Uhlman hired Barr as an assistant in 1982.

"He has a strong interest in public policy. He likes to see rational outcomes," Uhlman said. "Looking back at the route he has taken, it's not surprising to me that others have seen what I saw."

Barr may have sealed the nomination for himself with what White House officials said was his stellar handling of the Talladega, Ala., federal prison siege in August. After several days of plan-

ning, Barr ordered the FBI's hostage rescue team into the prison in a pre-dawn raid on Aug. 31. They safely released the nine hostages who had been held for 10 days by Cuban prisoners.

From 1973 to 1977, Barr worked for the Central Intelligence Agency, first in the intelligence directorate, then in the legal office.

At the CIA, he met then-director George Bush.

Barr took over as acting attorney general when Dick Thornburgh resigned to run for the U.S. Senate from Pennsylvania. Before that, Barr was Thornburgh's top aide, a job he got after he had been noticed in an obscure Justice Department post.

In 1989, the White House tapped Barr as the assistant attorney general for the Justice Department's Office of Legal Counsel, a low-profile job that, nonetheless, was formerly held by such luminaries as Supreme Court Justices William Rehnquist and Antonin Scalia.

There, still working very much behind the scenes, Barr was involved in perhaps the most controversial action of his career — writing an opinion that has come to be known as the "snatch authority."

It would allow the FBI to abduct fugitives abroad without permission of the host nation and in violation of established tenets of international law. Congressional leaders have criticized it as an extraordinary expansion of presidential authority.

Barr also advised the administration on such issues as the 1989 invasion of Panama, and in doing so he gained the increasing respect of both Thornburgh and White House officials.

It was no surprise, then, when he

was appointed deputy attorney general in 1990, when Donald Ayer vacated the job after only six months following a disagreement with Thornburgh.

Until Barr assumed the chief deputy's job, Thornburgh's tenure had been punctuated by strife. It was Barr's management skill and ability to deal with people that helped improve Thornburgh's relationship with both the press and Congress in his final year in office, congressional aides have said.

"The consensus is that the attorney general's office ran more smoothly after Barr took that job," said one congressional staffer. "Barr generally has

a good rapport with Congress."

Barr is a strong defender of Thornburgh, a fellow conservative. And, in substance, his Justice Department would likely be similar to his predecessor's. But in style, they are quite different.

Thornburgh, always the politician, seemed to be perpetually campaigning — good in a crowd but never totally at ease in one-on-one situations. Barr, on the other hand, is more relaxed, with a quick wit.

"He takes life seriously, but not his own vanity," Uhlman said. "He's not puffed up."

NewsRoom

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October 16, 1991

Section: News (National and Foreign)

BUSH NOMINATES BARR FOR U.S. ATTORNEY GENERAL BARR,
ACTING ATTORNEY GENERAL NOW, WOULD SUCCEED THORNBURGH.

ASSOCIATED PRESS

(AP) -- President Bush today nominated William Barr to be attorney general, saying Barr had been "tested by fire" as acting attorney general in forcing an end to an Alabama prison uprising last summer.

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Bush "just felt it was professionally handled from start to finish," White House spokesman Marlin Fitzwater said.

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"What makes it a particular honor is the opportunity to serve a president who is such a strong supporter of law enforcement," Barr said.

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Barr is a native of New York City who came to Washington to work at the Central Intelligence Agency in 1973. He graduated from Columbia University with degrees in Chinese studies. He worked as a junior staff member in the CIA's legislative affairs office when Congress investigated CIA misconduct. Bush was at the helm of the agency then.

WASHINGTON

PHOTO

PHOTO WILLIAM BARR Bush cites handling of riot

--- Index References ---

Company: WHITEHOUSE; CENTRAL INTELLIGENCE AGENCY; FBI SA; INFORMATICA APLICATA SA; US SENATE; COLUMBIA UNIVERSITY; FRANCHISE BANCORP INC; MIDDLE EAST COLLECTION; IMMOBILIARE AZIONARIA SPA; JUSTICE DEPARTMENT

News Subject: (Legal (1LE33); Civil Unrest (1CI11); Legislation (1LE97); Judicial (1JU36); Government Litigation (1GO18); World Conflicts (1WO07); Global Politics (1GL73); Government (1GO80); U.S. Legislation (1US12))

Industry: (Security Agencies (1SE35); Security (1SE29))

Region: (Alabama (1AL90); North America (1NO39); USA (1US73); Americas (1AM92))

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NewsRoom

are approximately 60 Columbus statues which are real works of art, among which is the statue at Union Station, perhaps one of the finest pieces of art—the most beautiful statue.

There was interest and enthusiasm.

The next meeting, on February 9, 1989, had fifteen attendees, including Anthony Catalano, Minister, Embassy of Italy; Richard Higgins, formerly U.S. Consul in Genoa; three representatives from OSIA (Order Sons of Italy in America) lodges; a representative from the Union Station general management office, Dr. David R. Curfman, representing the Washington Cathedral Choral Society; and eight representatives from various K.of C. offices or units, including Carl Anderson, then Vice President for Public Policy, today serving in his 10th year as Supreme Knight of the K of C..

A formal organization was needed so the group's activities could be recognized by the Quincentenary Commission. By laws were adopted on June 29, 1989 (the birthday of the Association), and the elected Board was given the responsibility to elect officers. John C. Moore was elected Chairman, Nina Baccanari of the NIH Lodge of OSIA, Secretary, and the writer, Treasurer.

On October 9, 1989 the Columbus Day celebration was for the first time under the sponsorship of the new Association, in collaboration with the National Park Service. Participants included Emmanuel N. Pelaez, Ambassador of the Philippines; Carlo Trezza, Counselor of the Embassy of Italy; Teri Doke representing the Mayor of Washington; and Robert Stanton, Regional Director of the National Park Service (later the head of the Park Service). There were eighteen wreath-presenters, The following year, 1990, participants included Counselor Trezza from Italy, Jorge Fuentes, Charge D'Affaires of the Embassy of Spain, Mercedes Gimenez, Cultural Attaché of the Embassy of Paraguay, and Valerie Barry, Acting Secretary of the District of Columbia. Sixteen groups presented wreaths.

CELEBRATING THE QUINCENTENARY

The national headquarters of the K of C decided to open their Order-wide observance of the Quincentenary with the Columbus Day ceremonies in 1991 at the national Columbus Memorial. (The ceremonies, however, remained under the nominal sponsorship of the Association and the National Park Service.) Arrangements were made for a much larger-than-

usual attendance. There were remarks by Frank Donatelli, Chairman of the Christopher Columbus Quincentenary Jubilee Commission, and the Columbus Day Address was delivered by William P. Barr, Acting Attorney General of the U.S. The 22 wreath presenters included the Embassies of Spain, Italy, and the Bahamas; the National Park Service, the Office of the Mayor; the Association (for the first time); five K. of C. groups, and ten Italian-American groups, including seven OSIA lodges. There was also an elaborate reception in the Columbus Club of Union Station hosted by the Supreme Office of the Knights. The 1991 ceremony also featured the reading of prize essays on Columbus by first place winners in DC, Maryland, and Virginia, as a forerunner of a national contest that culminated at the K of C convention in New York in 1992.

The 1992 DC ceremonies, back completely in local hands, featured addresses by U.S. Attorney Joseph E. DiGenova (on "The Courage of Christopher Columbus," and Christopher Kauffman ("Culture and Religion: A Quincentennial Reflection"). Joseph A. DePaul was Master of Ceremonies., and a visiting orchestra from Italy provided the music.

For the first time, a souvenir program booklet of twenty-eight pages appeared, which has continued ever since, growing in size, and contributing through complimentary advertising revenue toward covering celebration costs. For the sake of continuity, the original board had remained in place through the 1992 celebration, with some slight changes: One of the changes was the addition of Leonard Durso, who had retired from foreign service with USAID, and represented the George Washington OSIA Lodge to the Association.

At the general membership meeting on November 28, the Association voted to honor chairman John Moore for his contributions by presenting him with a plaque, dated on the Columbus Quincentennial, 1992. Though he wanted to retire as Chairman, it would be another two years before a successor would be named, in the person of Dr. David R. Curfman. John's faithful assistant and his de facto secretary in matters relating to Columbus until his retirement was his wife, Mar-



Leonard Durso

guerite, whose many contributions made his accomplishments possible. (John then became Treasurer of the Association and the writer, Secretary.)

Leonard Durso continued as an interested and faithful member of the board until his health failed him not long before his death on Good Friday, 2010.

REMARKS OF

WILLIAM P. BARR
ACTING ATTORNEY GENERAL

AT THE

98TH CONFERENCE OF THE
INTERNATIONAL CHIEFS OF POLICE
MINNEAPOLIS, MINNESOTA

OCTOBER 7, 1991

IT'S AN HONOR TO ADDRESS THIS 98TH ANNUAL CONFERENCE OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE. YOUR'S IS GOVERNMENT'S MOST IMPORTANT WORK -- PROVIDING FOR THE PUBLIC SAFETY. AND IN THE PERFORMANCE OF YOUR RESPONSIBILITY YOU FACE DAILY ADVERSITY -- PERHAPS MORE THAN ANY OTHER PROFESSION. SOCIETY OWES A GREAT DEBT TO YOU AND THOSE WHO SERVE UNDER YOU.

I WOULD LIKE TO COMMEND PRESIDENT LEE BROWN FOR THE LEADERSHIP HE HAS DEMONSTRATED THIS YEAR. LEE, LIKE ALL OF US, HAS BEEN PROFOUNDLY DISTURBED BY THE IMPACT OF CRIME ON CHILDREN. HE HAS DEDICATED HIS PRESIDENCY TO THE CHILDREN OF THE WORLD AND, IN HIS INAUGURAL ADDRESS LAST YEAR, HE CHALLENGED US TO MAKE THIS WORLD A BETTER PLACE FOR CHILDREN. LEE HAS ASKED ME TO REFLECT ON THESE CONCERNS IN MY REMARKS, AND I WELCOME THE OPPORTUNITY TO DO SO.

IT IS A SCIENTIFIC FACT THAT THE PERIOD OF DEPENDENT CHILDHOOD IS LONGER FOR HUMANS THAN FOR ANY OTHER SPECIES. IT IS IMPORTANT TO REMIND OURSELVES WHY THIS IS SO. IT IS BECAUSE IT TAKES TIME TO DEVELOP THE CHARACTER, TO FORM THE CONSCIOUS AND TO TRANSMIT THE VALUES NECESSARY FOR LIVING IN SOCIETY. AND THAT IS WHY, WHILE MOST SPECIES NURTURE THEIR YOUNG FOR A YEAR OR SO, WE NURTURE OUR CHILDREN FOR ALMOST TWO DECADES.

AND, ONE OF THE PRINCIPAL FUNCTIONS OF THE SOCIAL ORDER IS TO PROVIDE THE ENVIRONMENT IN WHICH THIS NURTURING OF OUR CHILDREN CAN OCCUR. A CLIMATE MUST BE CREATED WHERE CHILDREN ARE

PROTECTED PHYSICALLY AND WHERE MORAL CHARACTER CAN BE DEVELOPED AND VALUES TRANSMITTED.

BUT TODAY'S EPIDEMIC OF CRIME AND DRUGS IS TEARING APART THE FABRIC OF THE SOCIAL ORDER. IN MANY OF OUR COMMUNITIES THE ENVIRONMENT FOR NURTURING IS BEING OVERWHELMED BY A CULTURE OF CRIME.

LEE BROWN HAS SPOKEN POIGNANTLY OF THIS PROBLEM. HE ASKED: "HOW CAN ONE LOOK AT A BOARDER BABY, A YOUNG CHILD WHOSE BODY HAS BEEN RAVAGED BY DRUGS, KIDS CARRYING HANDGUNS TO SCHOOL, CHILDREN SELLING CRACK FROM BICYCLES . . . AND NOT FEEL PROFOUND SADNESS FOR THE LOSS OF HUMANITY AND FEAR FOR THE FUTURE OF OUR CHILDREN AND SOCIETY. . . ."

LEE BROWN'S FOCUS ON CHILDREN IS FARSIGHTED. CRIME, LIKE WAR, CAN LEAD TO A "LOST GENERATION" FROM WHICH SOCIETY MAY NEVER RECOVER. BEFORE A GENERATION IS LOST, BEFORE OUR HOPES FOR THE FUTURE ARE DASHED, WE MUST PRESERVE THE SOCIAL ORDER AND REVITALIZE THE NURTURING PROCESS.

AS WE IN LAW ENFORCEMENT SEARCH FOR SOLUTIONS TO THE VIOLENT CRIME PROBLEM, LEE BROWN HAS STRESSED A POINT OF CRITICAL SIGNIFICANCE. IN HIS INAUGURAL ADDRESS, HE EMPHASIZED THAT, FOR TOO LONG, WE IN LAW ENFORCEMENT HAVE BEEN "CALLED UPON TO BEAR

THE BURDEN OF CRIME OURSELVES". LEE HAS OBSERVED THAT LAW ENFORCEMENT ALONE CANNOT RESOLVE THE CRIME PROBLEM.

I THINK THIS POINT IS ABSOLUTELY CORRECT. AS I SAID RECENTLY IN AN OP-ED PIECE IN THE NEW YORK TIMES: THERE ARE NO PAT SOLUTIONS TO THE COMPLEX PROBLEM OF CRIMINAL VIOLENCE. "ONLY AN APPROACH COMBINING TOUGH LAW ENFORCEMENT WITH PHYSICAL, MORAL AND EDUCATIONAL REVITALIZATION OF HIGH-CRIME AREAS OFFERS THE PROSPECT OF A SAFER AMERICA."

NOW -- IN THE PUBLIC DISCOURSE ON THIS SUBJECT, IT IS SOMETIMES SAID THAT LAW ENFORCEMENT CANNOT -- LIKE SOME ARMY OF OCCUPATION -- SOLVE THE CRIME PROBLEM SIMPLY BY SUPPRESSION. SOMEHOW -- IT IS SAID -- WE MUST ADDRESS THE SO-CALLED "ROOT CAUSES" OF CRIME.

THERE IS A TENDENCY -- IN PUBLIC DISCUSSION -- TO DRAW A DICHOTOMY BETWEEN THE LAW ENFORCEMENT RESPONSE TO VIOLENT CRIME, ON THE ONE HAND, -- THAT IS, A RESPONSE WHICH TENDS TO SEE CRIME AS CAUSED BY CRIMINALS AND SEEKS TO DETER, INTERDICT OR INCAPACITATE THOSE CRIMINALS -- AND A SOCIAL REHABILITATIVE RESPONSE, ON THE OTHER HAND, -- THAT IS, A RESPONSE WHICH TENDS TO SEE CRIME AS CAUSED BY SOCIETAL ILLS AND SEEKS TO DEAL WITH CRIME BY REMEDYING THESE ILLS THROUGH VARIOUS SOCIAL PROGRAMS.

NOW, WHEN WE IN LAW ENFORCEMENT PARTICIPATE IN THE PUBLIC DEBATE ON CRIME, ITS CAUSES AND SOLUTIONS, I THINK IT IS VERY IMPORTANT THAT WE BE CAREFUL ABOUT WHAT WE SAY AND HOW WE SAY IT. BECAUSE WHEN WE SAY -- "LAW ENFORCEMENT CANNOT DO IT ALONE" -- WE MAY MEAN ONE THING. WHEN SOMEONE OUTSIDE LAW ENFORCEMENT SAYS IT -- THEY MAY MEAN SOMETHING QUITE DIFFERENT.

TODAY, I WOULD LIKE TO REFLECT UPON THIS PREMISE THAT, "LAW ENFORCEMENT CANNOT DO THE JOB ALONE" -- AND DEVELOP IT MORE FULLY.

SPECIFICALLY, I WOULD LIKE TO MAKE FOUR POINTS THAT ARE IMPORTANT TO CLARIFYING THE MEANING OF THIS PREMISE. IN MY VIEW THESE FOUR POINTS OR CAVEATS ARE ESSENTIAL TO PROPERLY FRAMING THE DEBATE ON HOW TO DEAL WITH CRIME.

THE FIRST POINT OF CLARIFICATION IS THIS. WHEN WE SAY, "LAW ENFORCEMENT CAN'T DO IT ALONE", IT SHOULD BE CLEAR WE ARE NOT SUBSCRIBING TO THE NOTION THAT SOCIAL PROGRAMS ARE SOMEHOW A SUBSTITUTE FOR A VIGOROUS LAW ENFORCEMENT POLICY.

HISTORICALLY, PROPONENTS OF A POLICY OF ATTACKING THE SO-CALLED "ROOT CAUSES" OF CRIME THROUGH SOCIAL PROGRAMS HAVE FREQUENTLY PRESENTED THEIR PROPOSALS AS AN ALTERNATIVE TO TOUGH LAW ENFORCEMENT. MANY OF THOSE WHO HAVE ARGUED FOR A SOCIAL PROGRAMS RESPONSE HAVE, IN FACT, BEEN CRITICS OF STEPPING UP LAW

ENFORCEMENT MEASURES -- WHICH THEY DISMISS AS PUNITIVE AND UNENLIGHTENED.

THE SUBTLE -- AND SOMETIMES NOT SO SUBTLE -- MESSAGE HAS BEEN THAT AGGRESSIVE LAW ENFORCEMENT AND SOCIAL, ECONOMIC AND OTHER PROGRAMS ARE CONTRADICTORY OR OPPOSING STRATEGIES. THE OBJECTIVE HAS FREQUENTLY BEEN TO SHIFT RESOURCES FROM LAW ENFORCEMENT TO SOCIAL PROGRAMS -- "WE DON'T NEED MORE POLICE; WE NEED MORE SOCIAL WORKERS" -- "LET'S NOT BUILD MORE PRISONS; LET'S BUILD MORE SCHOOLS".

I THINK IT SHOULD BE CLEAR THAT WE REJECT THIS FALSE DICHOTOMY. IT IS NOT AN EITHER/OR SITUATION.

WHEN WE SAY "LAW ENFORCEMENT CAN'T DO THE JOB ALONE", WE ARE SAYING THAT LAW ENFORCEMENT PROGRAMS MUST BE COMPLEMENTED BY SOCIAL PROGRAMS.

BOTH LAW ENFORCEMENT AND SOCIAL RENEWAL ARE ESSENTIAL AND THEY MUST WORK TOGETHER, MUTUALLY REINFORCING ONE ANOTHER. SOCIAL REVITALIZATION CANNOT BE PURSUED INSTEAD OF -- OR AT THE EXPENSE OF -- AGGRESSIVE LAW ENFORCEMENT POLICIES.

THE SECOND POINT OF CLARIFICATION IS THIS. SAYING THAT "LAW ENFORCEMENT CAN'T DO THE JOB ALONE" DOES NOT MEAN THAT OUR ROLE CAN BE RELEGATED TO SECOND PLACE.

ON THE CONTRARY, A STRONG LAW ENFORCEMENT EFFORT IS THE ABSOLUTELY NECESSARY PRECONDITION FOR ANY PROGRESS -- OR ANY SUCCESS -- IN COMBATTING VIOLENT CRIME.

IF IT IS TRUE TO SAY THAT LAW ENFORCEMENT CAN'T DO THE JOB ALONE, IT IS EVEN TRUER TO SAY THAT SOCIAL PROGRAMS CAN'T DO THE JOB ALONE.

LAW ENFORCEMENT IS THE FOUNDATION UPON WHICH THE OTHER PROGRAMS MUST BUILD. INDEED, SOCIAL REHABILITATION CANNOT EVEN GET STARTED WITHOUT STRONG LAW ENFORCEMENT IN PLACE. WE ARE THE SINE QUA NON FOR SOCIAL REHABILITATION. WHILE THERE MAY BE DEBATE ABOUT WHAT THE 'ROOT CAUSES' OF CRIME ARE, I BELIEVE THAT THERE CAN BE NO QUESTION THAT TOUGH LAW ENFORCEMENT IS THE "ROOT SOLUTION."

THERE ARE AT LEAST TWO REASONS WHY THIS IS TRUE. THE FIRST IS THE MOST OBVIOUS -- YOU CANNOT HAVE SOCIAL PROGRESS AMID CHAOS. NO SOCIETY HAS EVER EMERGED, PROGRESSED, OR RENEWED ITSELF WITHOUT ORDER.

IT MAKES NO SENSE TO PUT A "MODEL SCHOOL" IN AN INNER CITY NEIGHBORHOOD IF THAT NEIGHBORHOOD IS A COMBAT ZONE WHERE STUDENTS ARE SHOT ON THEIR WAY TO SCHOOL.

JOB TRAINING PROGRAMS ARE OF LITTLE USE WHEN THE TRAINEES ARE AFRAID TO LEAVE THEIR HOMES.

IN THE CABRINI GREEN HOUSING PROJECT IN CHICAGO, A NUMBER OF EDUCATIONAL PROGRAMS ARE UNDERWAY. UNFORTUNATELY, THE CRIME PROBLEM THERE IS SO BAD THAT PARENTS ARE HAVING THEIR CHILDREN SLEEP IN BATHTUBS -- ESSENTIALLY ARMORED CRIBS -- TO PROTECT THEM FROM STRAY BULLETS IN GANG WARS. ANY EFFORTS AT SOCIAL REHABILITATION WILL BE SMOTHERED WITHOUT AGGRESSIVE STEPS TO SUPPRESS VIOLENT CRIME.

KARL ZINSMEISTER GOT IT RIGHT WHEN HE OBSERVED, "PHYSICAL SAFETY AND PSYCHOLOGICAL SECURITY ARE THE FOUNDATION -- THE ESSENTIAL PRECONDITION -- FOR A CHILD'S HEALTH, EDUCATION, AND OVERALL DEVELOPMENT. A GOOD SCHOOL, AN ACCESSIBLE DOCTOR, A RICH LIBRARY, A 15% INCREASE IN THE HEAD START BUDGET -- THESE ARE OF LITTLE USE TO A CHILD SHARING AN APARTMENT WITH HIS MOTHER'S ABUSIVE, VIOLENT, DRUG-SELLING BOYFRIEND, OR TO A CHILD WHO FEARS THE VERY SIDEWALKS, OR TO ONE WHO CANNOT FIND A SAFE HAVEN EVEN IN THE CLASSROOM. IN FAILING TO INSULATE OUR CHILDREN FROM CRIMINAL ACTIVITY, WE ARE JEOPARDIZING THE FUTURE OF MILLIONS OF AMERICAN YOUNGSTERS."

THE SECOND REASON WHY LAW ENFORCEMENT IS THE ESSENTIAL PART OF THE SOLUTION IS SOMEWHAT MORE SUBTLE BUT NO LESS IMPORTANT. A STRONG SYSTEM OF LAW ENFORCEMENT IS ONE OF THE MOST IMPORTANT

MEANS BY WHICH SOCIETY INCULCATES VALUES IN ITS CITIZENS. AS ANY PARENT KNOWS, HAVING RULES AND IMPOSING PUNISHMENT FOR VIOLATING THOSE RULES IS ABSOLUTELY FUNDAMENTAL FOR MORAL DEVELOPMENT. THAT IS THE MEANS BY WHICH EXTERNAL RESTRAINT IS TRANSFORMED INTO SELF-RESTRAINT.

FOR EXAMPLE, VIGOROUS ENFORCEMENT OF THE 1964 CIVIL RIGHTS ACT HAS HELPED CHANGE PEOPLE'S BEHAVIOR AND WAY OF THINKING. WHEN WE PROSECUTE A CROSS BURNER IT SENDS A STRONG MESSAGE THAT SUCH BEHAVIOR IS WRONG AND WILL NOT BE TOLERATED BY SOCIETY. SUCH MESSAGES ARE IMPORTANT IN THE MORAL DEVELOPMENT OF OUR CITIZENS.

RECENTLY WE HAVE SEEN HOW THE ESTABLISHMENT AND ENFORCEMENT OF ENVIRONMENTAL LAWS HAS BEEN INSTRUMENTAL IN BUILDING AN ETHIC OF CONSERVATION.

SO, TO SUM UP MY SECOND POINT -- WHILE LAW ENFORCEMENT CAN'T DO IT ALONE, WE ARE THE CRITICAL FOUNDATION ON WHICH ALL ELSE BUILDS.

MY THIRD POINT IS THIS. WHEN WE SAY LAW ENFORCEMENT CANNOT DO THE JOB ALONE, WE DON'T SAY THIS OUT OF ANY SENSE OF FAILURE. TO THE CONTRARY, WE HAVE MADE SUBSTANTIAL PROGRESS IN THE LAST DECADE.

LET ME BRIEFLY REVIEW THAT PROGRESS. THE 1960'S AND 70'S WERE AN ERA OF PERMISSIVENESS. THE IDEA OF PERSONAL RESPONSIBILITY FELL OUT OF FASHION.

CRIMINALS WERE VIEWED AS VICTIMS OF SOCIETY, NOT AS PREDATORS. LENIENCY, NOT JUST PUNISHMENT, WAS THE WATCHWORD OF THE DAY.

THIS PERMISSIVENESS TRANSLATED INTO DECREASING RATES OF INCARCERATION DURING THE 60'S AND EARLY 70'S. FEWER CRIMINALS WERE PUT AWAY FOR LONG PERIODS OF TIME.

AND WHAT WAS THE IMPACT OF THIS? AS INCARCERATION RATES DROPPED, THE RATE OF VIOLENT CRIME SOARED.

IN THE 60'S AND 70'S, THE VIOLENT CRIME RATE ROSE FROM 286 PER 100,000 IN 1960 TO AN ALL-TIME HIGH IN 1980 OF 597 PER 100,000 -- MORE THAN DOUBLING IN TWO DECADES.

BY 1980 WE STARTED TO COME TO OUR SENSES AND GO BACK TO THE BASICS OF A TOUGH LAW ENFORCEMENT SYSTEM. WE REAFFIRMED THE COMMON SENSE NOTION THAT THE ONLY WAY TO PROTECT THE PUBLIC IS TO INCAPACITATE HABITUAL CRIMINALS -- KEEPING THEM OFF THE STREETS -
- BY LOCKING THEM UP FOR A LONG TIME.

BECAUSE OF THESE TOUGHER POLICIES, INCARCERATION RATES HAVE RISEN SUBSTANTIALLY IN THE 1980'S. WE HAVE GONE FROM AN INCARCERATION RATE OF 134 PER 100,000 IN 1980 TO A RATE OF 292 PER 100,000 IN 1990.

THESE POLICIES HAVE HAD AN IMPACT ON VIOLENT CRIME. THE SPIRALING CRIME RATE OF THE 60'S AND 70'S HAS BEEN ARRESTED. OVERALL, THE VIOLENT CRIME RATE HAS HELD RELATIVELY STEADY DURING THE 1980'S.

CONSIDER THAT IN THE 60'S THE MURDER RATE CLIMBED 55%; IN THE 70'S IT ROSE 29%; BUT IN THE 80'S IT ACTUALLY DROPPED BY 8%.

OR THE RATE OF RAPE, WHICH INCREASED BY 97% IN THE 60'S AND ANOTHER 97% IN THE 70'S, ROSE BY 12% IN THE 80'S.

OR THE RATE OF AGGRAVATED ASSAULT AND ROBBERY, WHICH IN THE 1960'S INCREASED BY 187%, BUT WHICH IN THE 1980'S INCREASED BY 2%.

WHILE THE LEVELS OF VIOLENT CRIME REMAINS UNACCEPTABLY HIGH, WE HAVE AT LEAST SEEN AN END TO THE DRAMATIC INCREASES IN VIOLENT CRIME THAT MARKED THE PREVIOUS TWO DECADES. THIS IS PROGRESS.

WHAT MAKES THIS PROGRESS ALL THE MORE REMARKABLE IS THAT IT HAS OCCURRED AT THE HEIGHT OF THE DRUG EPIDEMIC AND ALL THE VIOLENT CRIME IT SPAWNS. IT IS INDEED FRIGHTENING TO THINK WHERE WE WOULD BE TODAY WITHOUT THE TOUGH LAW ENFORCEMENT STRIDES OF THE 1980'S.

THIS LEADS ME TO THE FOURTH AND LAST POINT OF CLARIFICATION. IN SAYING WE CANNOT DO IT ALONE, WE ALSO SHOULD NOT MEAN THAT WE HAVE DONE ALL THAT WE CAN ON THE LAW ENFORCEMENT SIDE.

SOCIETY MUST CONTINUE TO INVEST SUFFICIENT RESOURCES IN LAW ENFORCEMENT.

AT THE FEDERAL LEVEL, WE HAVE SEEN DRAMATIC INCREASES IN RESOURCES. PRESIDENT BUSH HAS SOUGHT INCREASES FOR THE DOJ AVERAGING 20% A YEAR FOR THE PAST THREE YEARS.

WHILE CONGRESS HAS NOT FULLY FUNDED THESE REQUESTS, WE HAVE NEVERTHELESS SEEN UNPRECEDENTED GROWTH.

STATE AND LOCAL GOVERNMENTS MUST LIKEWISE BE COMMITTED TO PROVIDING THE NECESSARY RESOURCES. AFTER ALL, 95% OF VIOLENT CRIME IS HANDLED AT THE STATE AND LOCAL LEVEL. IN 1957 THERE WERE 1.4 POLICE OFFICERS FOR EACH VIOLENT OFFENSE COMMITTED; TODAY WE HAVE ONLY .3 POLICE OFFICERS FOR EACH VIOLENT OFFENSE.

SO AT LEAST IN RELATION TO VIOLENT CRIME, WE HAVE LESS THAN 1/4 THE POLICE OFFICERS WE HAD 30 YEARS AGO.

STATES MUST SPEND THE MONEY NECESSARY TO PROTECT THE PUBLIC.
THE PUBLIC'S SAFETY IS NOT JUST ANOTHER LINE ITEM IN THE BUDGET -
- IT IS THE FIRST DUTY OF GOVERNMENT.

BESIDES RESOURCES, MORE ALSO HAS TO BE DONE TO REFORM THE CRIMINAL JUSTICE SYSTEM.

IN THE 1980'S WE MADE GREAT STRIDES IN REFORMING THE FEDERAL CRIMINAL JUSTICE SYSTEM -- WITH SUCH CHANGES AS BAIL REFORM, PRETRIAL DETENTION, AND SENTENCING REFORM.

BUT CRUCIAL REFORMS ARE STILL NECESSARY.

AS YOU KNOW, PRESIDENT BUSH IS PUSHING FOR A TOUGH CRIME BILL THAT WOULD ACCOMPLISH NEEDED CHANGES. IT WOULD PROVIDE FOR AN EFFECTIVE DEATH PENALTY, HABEAS CORPUS REFORM, EXCLUSIONARY RULE REFORM, AND TOUGH NEW MANDATORY MINIMUM SENTENCES FOR FIREARM OFFENSES.

WE DEEPLY APPRECIATE IACP'S SUPPORT FOR THE PRESIDENT'S BILL. THE SENATE RECENTLY PASSED A CRIME BILL THAT INCLUDED MAJOR PARTS OF THE PRESIDENT'S PROPOSALS.

DURING THE NEXT TWO WEEKS WE ARE HEADED FOR A SHOWDOWN ON THE HOUSE FLOOR. LIKE LAST YEAR, THERE WILL BE A SERIES OF KEY FLOOR VOTES WHERE WE WILL BE TRYING TO BEAT BACK A VERY LIBERAL BILL THAT FRANKLY SEEKS TO TURN THE CLOCK BACK TO THE "WARREN COURT YEARS", AND SUBSTITUTE FOR IT, THE PRESIDENT'S TOUGH CRIME PROPOSALS. WE HOPE WE WILL CONTINUE TO HAVE YOUR SUPPORT IN THIS CRITICAL UPCOMING FIGHT.

BUT EVEN WITH FEDERAL REFORM, MUCH CAN -- AND SHOULD -- BE DONE TO IMPROVE STATE CRIMINAL JUSTICE SYSTEMS. WHILE SOME STATES HAVE BROUGHT THEIR SYSTEMS UP TO DATE, SOME STILL LAG BEHIND.

THERE IS MUCH THAT CAN BE DONE -- PRETRIAL DETENTION, SENTENCING REFORM, UPDATING EVIDENTIARY RULES, AND SO FORTH.

IT IS DISTURBING THAT IN ONE SURVEY OF 35 STATES, THE AVERAGE PRISON TIME SERVED FOR HOMICIDE WAS 4 YEARS AND 10 MONTHS.

FOR RAPE, IT WAS 3 YEARS AND 8 MONTHS. FOR DRUG TRAFFICKING, 1 YEAR AND 9 MONTHS.

IN MY VIEW, THIS IS UNACCEPTABLE.

STATES MUST ADOPT THE LAWS THAT ADEQUATELY EQUIP LAW ENFORCEMENT TO DO ITS JOB.

IN SUM THEN, WHILE WE RECOGNIZE THAT LAW ENFORCEMENT CANNOT SOLVE THE PROBLEM OF VIOLENT CRIME ALONE, WE ALSO RECOGNIZE THAT SOCIAL PROGRAMS ARE NOT A SUBSTITUTE FOR TOUGH LAW ENFORCEMENT POLICIES.

IN FACT, VIGOROUS LAW ENFORCEMENT IS THE ESSENTIAL FOUNDATION UPON WHICH ANY EFFORT AT SOCIAL RESTORATION MUST BE BASED.

WE RECOGNIZE THAT, WHILE TOUGHER LAW ENFORCEMENT POLICIES HAVE BORN FRUIT OVER THE PAST DECADE, THERE IS STILL MUCH MORE GOVERNMENT CAN DO TO MAKE OUR LAW ENFORCEMENT EFFORTS MORE EFFECTIVE.

IN CONCLUDING, LET ME TURN VERY BRIEFLY TO THE SOCIAL SIDE OF THE LEDGER.

WE ALL KNOW WE CAN'T DO THE JOB SOLELY AS ARMIES OF OCCUPATION.

I WANT TO MAKE TWO QUICK POINTS ABOUT THIS.

FIRST, I DON'T THINK THE PROBLEM HAS BEEN THE AMOUNT OF RESOURCES WE AS A SOCIETY HAVE BEEN WILLING TO INVEST ON THE SOCIAL SIDE.

IN THE LAST 25 YEARS WE HAVE SPENT ASTRONOMICAL AMOUNTS IN SOCIAL PROGRAMS -- OVER \$9 TRILLION.

WHAT HAVE WE PURCHASED WITH THOSE \$9 TRILLION?

OUR PROBLEM HAS NOT BEEN THE SCALE OF SOCIAL SPENDING, BUT OUR FAILURE TO COORDINATE SOCIAL SPENDING WITH LAW ENFORCEMENT.

AND SO WITH ONE HAND, WE PUMPED OUT SOCIAL SPENDING MONEY (LIKE THE MODEL CITIES PROGRAM) WITHOUT REGARD TO WHETHER WE HAD EFFECTIVE ANTI-CRIME PROGRAMS IN PLACE TO SUPPORT IT.

AND WITH THE OTHER HAND, WE PUMPED OUT LAW ENFORCEMENT RESOURCES (LIKE LEAA) WITHOUT REGARD TO WHETHER THERE WERE COMMUNITY AND SOCIAL PROGRAMS THAT REINFORCED OUR ANTI-CRIME EFFORTS.

THE CHALLENGE IS TO LINK THESE UP -- TO DEPLOY AND FOCUS OUR LAW ENFORCEMENT ASSETS AND OUR SOCIAL RESOURCES AT THE SAME TIME, IN THE SAME PLACE, AND IN A MUTUALLY REINFORCING WAY.

IN THIS REGARD, WE HAVE BEEN DEVELOPING A PROGRAM AT DOJ WE CALL "WEED & SEED". WHILE IT HAS SOME NEW RESOURCES, IT IS NOT SO MUCH A NEW SPENDING PROGRAM AS A METHOD OF OPERATING. IT INVOLVES THE INTEGRATION OF FEDERAL, STATE AND LOCAL LAW ENFORCEMENT ACTIVITIES ON A COMMUNITY BASIS -- AND THEN THE INTEGRATION OF THOSE LAW ENFORCEMENT EFFORTS WITH A BROADER PROGRAM OF COMMUNITY REVITALIZATION.

THE SECOND POINT IS THAT OUR BEST CHANCE FOR GENUINE COMMUNITY RENEWAL DOES NOT COME FROM ELABORATE SOCIAL ENGINEERING PROGRAMS IMPOSED FROM THE TOP DOWN. RATHER, OUR HOPE LIES IN FOSTERING THE REBIRTH OF THOSE TRADITIONAL INSTITUTIONS WHICH EMERGE FROM NEIGHBORHOODS THEMSELVES -- THE FAMILY, THE CHURCH, AND COMMUNITY GROUPS.

MANY OF THE SO-CALLED EXPERTS WHO ARE PEDDLING SOCIAL ENGINEERING SOLUTIONS TO OUR PROBLEMS TODAY ARE THE VERY SAME PEOPLE WHO CONTRIBUTED TO THOSE PROBLEMS IN THE FIRST PLACE.

IN THE 60'S AND 70'S, THERE WERE PLENTY OF SOCIAL EXPERTS AROUND SAYING THAT WE SHOULD THROW OFF THE OUT-MODED RESTRAINTS OF THE PAST THAT HAD BEEN INCULCATED BY PARENTS AND CHURCHES SINCE THIS COUNTRY BEGAN. THE PROPHETS OF THE SEXUAL REVOLUTION AND THE DRUG CULTURE PROCLAIMED THE DAWN OF A NEW ERA OF MATURITY AND FREEDOM, OF PEACE AND LOVE. THAT'S NOT WHAT HAPPENED -- NOT BY A LONG SHOT. TODAY WE CAN SEE THE GRIM HARVEST OF THE

PERMISSIVE SOCIETY: BROKEN FAMILIES, VENEREAL DISEASES, TEENAGE PREGNANCY, CRACK BABIES. WE SEE MISERY AND SQUALOR, CONFUSION AND LONELINESS.

AND THESE SO-CALLED EXPERTS ARE NOW PROMOTING HALF-BAKED SOLUTIONS THAT SEND THE WRONG MESSAGE -- LIKE NEEDLES TO ADDICTS AND CONDOMS TO KIDS.

OUR SOCIAL PROGRAMS MUST SEND THE RIGHT MESSAGE. LAW ENFORCEMENT SENDS A CLEAR MESSAGE ABOUT RIGHT AND WRONG, ABOUT PERSONAL RESPONSIBILITY, AND ABOUT WHAT A JUST SOCIETY EXPECTS OF ITS CITIZENS. OUR SOCIAL PROGRAMS MUST REINFORCE THAT MESSAGE. THEY CANNOT SEND THE MESSAGE THAT SOMEBODY ELSE WILL CLEAN UP IF WE MAKE A MESS. THEY CANNOT SEND THE MESSAGE THAT CRIMINAL BEHAVIOR IS AN UNDERSTANDABLE RESPONSE TO CERTAIN DIFFICULT CIRCUMSTANCES.

IN THE FINAL ANALYSIS, NOTHING CAN SUBSTITUTE FOR THE CLEAR MORAL VISION, THE DISCIPLINE, AND THE RESPECT FOR AUTHORITY THAT STRONG FAMILIES, RELIGION AND COMMUNITY VALUES PROVIDE. AND IF WE'RE CONCERNED ABOUT POVERTY, THE INTACT FAMILY IS STILL THE BEST PLACE TO START. FAMILY STATUS IS NOW THE STRONGEST DETERMINANT OF ECONOMIC STANDING IN AMERICA. BY SHORING UP THE FOUNDATION OF CIVILIZED SOCIETY, THE FAMILY AND THE LOCAL COMMUNITY, OUR SOCIAL PROGRAMS CAN HELP FIGHT BOTH POVERTY AND CRIME.

REMARKS

BY

WILLIAM P. BARR
ACTING ATTORNEY GENERAL

AT THE

COMBINED FEDERAL CAMPAIGN KICKOFF CEREMONY

DEPARTMENT OF JUSTICE
GREAT HALL

FRIDAY, OCTOBER 4, 1991
2:00 P.M.

THANK YOU, STU. IT'S AN HONOR TO SERVE AS CHAIRMAN OF THE DEPARTMENT'S FALL 1991 COMBINED FEDERAL CAMPAIGN. THE CFC IS AN EXCELLENT WAY FOR ALL OF US TO GET INVOLVED ON BEHALF OF OUR COMMUNITIES. SOMETIMES WE SIMPLY DON'T HAVE AS MUCH TIME TO WORK AS CHARITABLE VOLUNTEERS AS WE WOULD LIKE. THAT'S WHERE THE CFC COMES IN -- BY CONTRIBUTING TO IT WE ARE ABLE TO DEMONSTRATE THAT WE REALLY DO CARE.

THE DEPARTMENT OF JUSTICE HAS RAISED OVER \$1 MILLION IN EACH OF THE PAST TWO CFC CAMPAIGNS. THAT'S A RECORD WE CAN ALL TAKE PRIDE IN. THIS

TIME, WE'VE ESTABLISHED A GOAL OF \$1.27 MILLION. THIS IS AMBITIOUS, BUT I'M SURE WE CAN REACH IT.

AS ALWAYS, THE SUCCESS OF THIS CAMPAIGN DEPENDS ON THOSE OF YOU WHO WILL WORK ON BEHALF OF CFC. TO MAKE SURE THAT WE SUCCEED, WE ARE GOING TO SEE THAT EACH AND EVERY EMPLOYEE IN THE DEPARTMENT IS CONTACTED BY A KEYWORKER WHO WILL PROVIDE INFORMATION ON THE CAMPAIGN AND THE VARIOUS OPTIONS AVAILABLE.

THE PAYROLL DEDUCTION PLAN IS PROBABLY THE BEST WAY TO GET MAXIMUM RESULTS FROM EMPLOYEES. AN INCREMENTAL DEDUCTION EVERY TWO WEEKS

CAN BECOME A VERY SUBSTANTIAL ANNUAL CONTRIBUTION. THE MORE EMPLOYEES THAT USE THE PAYROLL DEDUCTION, THE BETTER THE CHANCES THAT WE'LL REACH OUR GOAL.

I WOULD LIKE TO EMPHASIZE THAT EVERY CONTRIBUTOR CAN DESIGNATE WHERE HE OR SHE WOULD LIKE THE CONTRIBUTION TO GO. THIS WAY, YOU CAN MAKE SURE THAT THE CHARITY OF YOUR CHOICE CAN CONTINUE IN ITS FINE WORK.

SOME OF YOU ARE PROBABLY AWARE THAT THE DEPARTMENT WILL SOON BE OPENING A CHILD DEVELOPMENT CENTER FOR DOJ EMPLOYEES' CHILDREN. YOU MAY NOT KNOW THAT THE CENTER IS ELIGIBLE TO

RECEIVE CFC FUNDS. THEY SAY THAT CHARITY BEGINS AT HOME. WELL, IT CONTINUES AT WORK, TOO. I HOPE YOU WILL CONSIDER A DESIGNATED CONTRIBUTION TO THE CHILDCARE CENTER -- IT WOULD BE A GOOD WAY TO HELP THE DEPARTMENT'S VERY OWN.

AMERICANS ARE PROBABLY THE MOST CHARITABLE PEOPLE IN THE WORLD. IN THE 1980s, A PERIOD SOME HAVE CHARACTERIZED AS A "DECADE OF GREED," CHARITABLE CONTRIBUTIONS IN AMERICA ROSE STEADILY. ACTUALLY, THE RISE WASN'T REALLY STEADY, IT WAS MORE LIKE SPECTACULAR. IN 1980, FOR EXAMPLE, ALL CHARITABLE CONTRIBUTIONS IN AMERICA TOTALLED \$48.73 BILLION. BY

1990, THAT FIGURE HAD RISEN TO \$122.57
BILLION -- AN INCREASE OF OVER 250%.

PRESIDENT BUSH RECOGNIZES THIS
GENEROUS IMPULSE IN THE AMERICAN
PEOPLE. HE HAS BEEN A POWERFUL AND
EFFECTIVE SPOKESMAN ON BEHALF OF
PRIVATE CHARITY. HE IS ALSO A STRONG
SUPPORTER OF THE CFC. WITH A STRONG
EFFORT IN THE NEXT FEW WEEKS, WE CAN
SHOW THAT THE DEPARTMENT OF JUSTICE
SHARES HIS SENTIMENTS.

IN CLOSING, I'D LIKE PERSONALLY TO
THANK ALL OF YOU FOR YOUR COMMITMENT
AND SUPPORT. WITH YOUR HELP AND THE
GENEROSITY OF OUR CO-WORKERS, I AM
CONFIDENT THAT WE CAN REACH OUR GOAL

**THIS YEAR. WE WILL SHOW THAT THIS
DEPARTMENT HAS A STRONG SENSE OF
COMMUNITY RESPONSIBILITY.**

THANK YOU VERY MUCH.

WILLIAM P. BARR
ACTING ATTORNEY GENERAL

AT THE
CONFERENCE OF CRIME STOPPERS INTERNATIONAL

LOUISVILLE, KENTUCKY

OCTOBER 2, 1991

It's an honor for me to be here this afternoon to address this conference of Crime Stoppers International. The first thing I'd like to do is to express profound appreciation for your dedication and the effective job you do in supporting law enforcement. If there is one thing we have learned about fighting crime, it is that success depends on one essential ingredient -- "cooperation". Cooperation among all law enforcement agencies -- federal, state, and local. Cooperation internationally among the law enforcement agencies of different countries. But perhaps most important -- cooperation between law enforcement agencies and the communities they serve. Police and prosecutors know that the war on crime cannot be won by law enforcement alone. The cooperation and support of dedicated citizens is essential.

Crime Stoppers is perhaps the premier example of precisely this kind of joint law enforcement -- community cooperation. Tim Kline, from your home office in Albuquerque, recently told me about a Crime Stoppers case that not only demonstrated how effective Crime Stoppers is but also exemplifies the cooperation I'm talking about. Kathy Baca, who heads up the New Mexico Crime Stoppers Commission, got an anonymous tip -- and a good one -- about a big plantation of marijuana. And where was this plantation? Not in New Mexico, but in Kansas. The anonymous caller reported it was located beside the Republican River and gave directions to its exact position.

Kathy looked up the nearest crime stopper in that part of Kansas, who turned out to be Chief Anthony DiPlacito, ten miles

away in Goodland, Kansas. Chief DiPlacito got right out to the river and easily spotted the plantation. It showed signs of being harvested, and the Chief put it under observation. The planting was only fifty feet wide, but two miles long straight up along the river.

When the Chief wondered how he would manage getting the crop destroyed, Tim and Kathy advised the chief to get in touch with the feds. So now the DEA, I'm pleased to report, is going to lend a helping hand in destroying this crop.

This is the type of cooperation envisioned by your founder Greg Macaleese back in the mid-1970's when he wondered about what could be done to increase public involvement in hunting down criminals.

And this particular case illustrates cooperation at all levels:

- Cooperation between federal and state law enforcement;
- cooperation between jurisdictions; and
- cooperation between dedicated citizens and law enforcement.

The motto of this year's conference is "crime has no boundaries". Well, with this kind of cooperation, we soon may be able to say, "the arm of the law knows no boundaries".

I pledge to you that this Department of Justice is committed to working with you to build further cooperation and to assist you in expanding and increasing your successes in our joint and unrelenting fight against crime.

AN HISTORICAL OVERVIEW OF THE STRUGGLE AGAINST VIOLENT CRIME

Now, as to our fight against crime, I'd like to give you an overview on how far we have come and where things stand today.

The 1960's and 70's were an era of permissiveness. The idea of personal responsibility fell out of fashion. We witnessed the erosion of accountability as the foundation of the criminal justice system. Criminals were viewed as a victim of society, not as predators. Leniency, not "just punishment", was the policy maker's approach to criminals.

This permissiveness during the 60's and 70's was reflected in low rates of incarceration -- that is, the number of people in prison per 100,000 population. In 1950, the rate of incarceration was 110 per 100,000. There were 116,000 people in federal and state prisons. This rate of incarceration remained relatively stable during the 1950's. At the end of that decade the rate was still 119 per 100,000. But in the decade of the 60's, although crime was increasing, the incarceration rate dropped dramatically by 20%. The rate in 1970 was 97 per 100,000. The overall prison population was 196,000 - 16,000 fewer prisoners than in 1960. This trend continued into the 70's.

And what was the impact of this? To put it simply, violent crime in the 60's and 70's exploded. As we put fewer criminals in prison for long periods of time, the rate of violent crimes soared.

In 1960, the FBI reported that a total of 287,000 murders, rapes, robberies, and aggravated assaults were reported to police. This was a violent crime rate of 286 per 100,000. By the end of

the 60's, the number of these violent crimes reported to police had more than doubled to 662,000, a 126% increase. The violent crime rate grew to 364 per 100,000.

By the 1970's it had become obvious -- at a great cost in human suffering -- that the policies of the 1960's had failed miserably. Violent crime continued to climb out of control -- rising to a shocking all-time high in 1980 of 597 per 100,000 -- more than double the 1960 rate.

But by 1980 we had come to our senses and had started to act. We went back to the basics. Federal and state policy makers began to see the importance of holding criminals accountable for their acts. They reaffirmed the common sense notion that the only way to protect the public was to incapacitate habitual criminals -- keeping them off the streets -- by locking them up for a long time.

During the 1980s the rate of incarceration increased substantially. In 1980, the prison rate was 134 per 100,000 with a total of 305,000 criminals in federal and state prison. By 1990, this rate more than doubled - to a level of 292 per 100,000, a 118% increase in the rate of incarceration. There are now about 775,000 people in federal and state prisons.

Many of the so-called experts -- whose theories gave us the horrors of the 60's and 70's -- are criticizing this high prison population. They say it's a sign of failure. I believe they are wrong. It is a sign of success.

In my view, this "get tough" policy is working. The spiraling crime rate has been arrested. Indeed, in the early 1980's the

violent crime rate actually dropped. Overall from 1980 to 1990 the crime rate has held steady. While the level of violent crime remains unacceptably high, we have at least seen an end to the dramatic increases in violent crime that marked the previous two decades. We slammed on the breaks.

What makes this turnaround all the more remarkable is that this leveling off has occurred at the height of an onslaught of the drug epidemic -- and the violent crime it spawns. There is direct correlation between drug use and violent crime. In the past few years, over one-third of all violent felonies in this country were committed by persons under the influence of drugs. In New York City, in 1988, 90% of all male arrestees tested positive for drug use.

The effect that our willingness to put criminals away has had on the rise of violent crime must never be forgotten. Consider these statistics. During the decade of the 1960's the murder rate rose by 55%. During the 1970's, it rose by 29%. But during the 80's it actually dropped by 8%. Or look at the rate of rape. From 1960 to 1970, rape increased by 97%. From 1970 to 1980, rape increased by another 97%. But from 1980 to 1990, the rate of increase was only 12%. The same pattern can be shown for aggravated assault and robbery, which in the 1960's increased by 187%, but which in the 1980's increased by only 2%.

Imagine for a moment what life would be like if we had not locked up these violent felons over the past ten years. Consider the costs of non-incarceration in terms of lives and property.

According to a recent study by the Bureau of Alcohol, Tobacco and Firearms, the cost of non-incarceration is enormous. BATF did a study of 471 career criminals serving 15 year minimum sentences for firearms offenses. Those responding to questions about their criminal careers indicated that they had committed an average of more than three crimes per week, or nearly 160 per year. The average cost to society for each crime was estimated by BATF to be \$2,300. Thus, each of these career criminals cost society more than \$368,000 for each year they remain on the streets. It costs the federal government \$22,500 per year to incarcerate a prisoner. So, when I hear people complaining about the costs of incarceration, I say: "give me those costs any day."

THE BUSH ADMINISTRATION'S COMMITMENT TO FIGHTING CRIME

As we turn our attention to the 1990's, we are fortunate to have a President who has been aggressively pressing ahead in this fight against violent crime. President Bush has challenged all of us in law enforcement to focus on the basics of arrest, prosecution and incarceration. In short, "if you do the crime, you'll do the time".

Wisely building upon the experiences of the last three decades, the President's plan has involved three parts: 1) a substantial increase in law enforcement resources; 2) the enactment of critically needed reforms in the criminal justice system; and 3) the aggressive use of tough laws already on the books.

As to fiscal resources, the president's commitment to law

enforcement is remarkable in these days of budgetary restraint. Since taking office he has asked Congress to increase the Justice Department's budget by 60%. Unfortunately, these requests have not been fully funded by Congress. But even so, there has been an unprecedented growth of federal law enforcement resources -- with more prisons, more prosecutors, more FBI and DEA agents, and more assistance to state and local law enforcement. In fact, the President has sought and received increased resources for the war on drugs from a level of \$4.5 billion in 1988 to \$10.5 billion in 1991.

With regard to reform of the criminal justice system, the President has been urging Congress to adopt his tough anti-crime proposals embodied in his Comprehensive Violent Crime Control Act. Unfortunately, Congress has dragged its feet for over 2 years. In fact, last year, although both the Senate and House passed major portions of the President's crime bill, the liberal opposition killed his proposals in the conference committee.

Let's make no mistake about it, further reform of our criminal justice system is essential. The current system in this country is riddled with loopholes and technicalities that render punishment neither swift nor certain, and frequently do not further justice but frustrate justice. In response to this reality, the President's crime bill contains four essential components:

First, it calls for an enforceable federal death penalty for the most serious and heinous federal crimes, such as drug related killings, kidnapping and hostage-taking murders and terrorist

violence. Although the vast majority of american people believe that the death penalty is the just and proper punishment for certain heinous crimes, there has been no federal death penalty since 1974. When the nation stands impotent -- unable or unwilling to impose the just punishment -- the integrity of our entire criminal justice system suffers.

Second, the President proposes to end abusive delays in carrying out criminal sentences, especially through the abuse of the writ of habeas corpus in death penalty cases. There are over 2,000 prisoners currently on death row, and the average delay in imposing the death sentence is eight years.

There are many examples of this abuse of the legal system. The case of Walter Junior Blair illustrates the cynical manipulation of the judicial system by society's most violent enemies.

In 1979, Blair murdered Kathy Jo Allen, who was scheduled to testify as the rape victim in the trial of her attacker Larry Jackson. Jackson hired Blair to kill Miss Allen for \$6,000.

This is about as pre-meditated a case of murder as can be imagined. It is murder-for-hire to prevent another violent crime from being prosecuted. Miss Allen, brutally raped by Larry Jackson, was brutally murdered by Walter Blair.

Blair was convicted of capital murder on October 16, 1980, by a jury that sentenced him to death. He has managed to evade his punishment through a skillful manipulation of habeas corpus -- through endless, duplicative challenges in both the federal and

state systems. This lack of finality devastates the criminal justice system. It diminishes the deterrent effect of state criminal laws; it saps state prosecutorial resources; and it continually reopens the wounds of victims and survivors.

Third, the President's bill calls for reform of the judge-made exclusionary rule to allow all evidence obtained by police in good faith to be received as evidence in criminal trials. Too often, the exclusionary rule results in violent criminals returning to the streets because information about their crimes is kept from juries deciding their cases. Police officers must act quickly to seize wrongdoers and obtain evidence while protecting themselves and bystanders. It is easy to second-guess their search and seizure decisions in a secure courtroom.

And fourth, the President proposes tougher mandatory sentences for gun and drug offenders that will help get many habitual criminals off the streets and into prison. By going after the violent recidivist criminals, the public is greatly served because a small number of dangerous criminals commit a disproportionately large number of crimes. By targeting these chronic offenders, we can have a real impact on the rate of violent crime.

While the Senate passed a bill this summer that contains three of the four proposals I just described (exclusionary rule reform was rejected), the House has not yet acted this year. On the contrary, the House Committee on the Judiciary has approved a bill that would turn the clock back in the battle against crime. While ignoring nearly all of the President's proposals, it contains

language that is more pro-criminal than pro-law enforcement. Indeed, some provisions seek to overturn recent crucial Supreme Court decisions that strengthened law enforcement's hand in fighting crime. If that bill is not substantially amended on the House floor, the President's proposals will most likely not be enacted this year.

As to the third aspect of our program, as I mentioned, we are continuing to use the tools already at our disposal. In response to the growing threat of illegal guns, bringing ruthless, random murder into our streets, we are taking federal action against armed felons to seize their weapons and to get these repeat offenders off the streets and into prison. Under "Operation Triggerlock", we have charged over 2000 gun wielding criminals since April.

One statute we are using in this operation is called the Armed Career Criminal Act. It establishes a 15 year mandatory prison sentence for any felon who possesses a gun after three federal or state felony convictions. And we have reason to believe that these career criminals are beginning to understand how serious we are about enforcing this law. One felon when asked recently if he ever realized that possession of a firearm would put him away for 15 years replied, "no, I'd have eaten the gun, if I'd known."

In addition to Operation Triggerlock, we have instituted another use of our current resources to permanently remove criminal control from America's neighborhoods. This new and innovative strategy - referred to as project "Weed and Seed", is designed to

reclaim crime-ridden neighborhoods from the degradation of crime and drugs and to rebuild their gutted infrastructures to accommodate a law-abiding citizenry. Our "Weed and Seed" projects are already under way in three high-risk, urban areas. And more projects are planned for next year. Our plan involves public, private and corporate partnerships aimed at restoring the livability and productivity of the community.

THE STATES' ROLE IN FIGHTING CRIME

But at this point I must stop and make note of the limitations to our federal attack on crime. 95% of the violent crime in this Nation is investigated, prosecuted and punished at the state and local level of government. Indeed, the responsibility for insuring the first civil right of all Americans - the right to be free from the fear of crime - falls most heavily on state and local governments.

Nevertheless, the Federal Government serves in a leadership role in encouraging the states to do all that they can to toughen their laws. The experience of federal law enforcement in the 80's demonstrates that strict accountability works - it is in fact the only thing that works from a law enforcement perspective.

While there are still crucial reforms needed in the federal system, during the 1980's, we made great progress in improving that system -- with such changes as bail reform and pretrial detention and sentencing reform.

Many states have followed this lead and made necessary changes.

to their laws. But more remains to be done. Because of inadequate prison space, criminals are all too often set free either immediately after conviction or after a very short time in prison. Very often they commit new violent crimes while they are on probation or parole. It is shocking that in one survey of 35 states, the average prison time served for homicide was 4 years and ten months. For rape, it was 3 years and 8 months. And for drug trafficking, despite the war on drugs, it was 1 year and 9 months. This is unacceptable; it must change.

States must adopt the laws that adequately equip law enforcement to do its job. And states must spend the money necessary to protect the public -- the public's safety is not just another line item in the budget -- it is the first duty of government.

CONCLUSION

My concluding thought is this. Even with all the reform. Even with all the resources. Law enforcement alone cannot solve the problem of violent crime. To return to my opening thought, community action is essential. We need to transform our attitudes as a society. We need to mobilize the community at all levels. In the long-term, only by strengthening our values can we triumph over violence. And family, church, and civic institutions are the building blocks of solid community values. The time-honored values they pass down from generation to generation are essential to the preservation of liberty.

And so our citizens and our civic institutions must be willing to get in the fight themselves. This is why Crime Stoppers is so important and so laudable. Your very existence demonstrates a willingness to get involved. You are not content to sit back and watch, you want to act. By working with police authorities, you are showing that average citizens can fight back against crime; that they can make a difference in the quality of life in their neighborhoods; and that the spirit of community involvement is, not only still alive, but flourishing. The challenge we face is to spread your sense of conviction throughout the cities and towns of America. God bless you. God bless all men and women who work to uphold the law.

REMARKS OF

WILLIAM P. BARR
ACTING ATTORNEY GENERAL

AT THE

MULTINATIONAL CONFERENCE ON ASIAN ORGANIZED CRIME
STOUFFER STANFORD COURT HOTEL
SAN FRANCISCO, CALIFORNIA

SEPTEMBER 26, 1991

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IT IS A PLEASURE FOR ME TO JOIN YOU AT THE CLOSE OF THIS EXTREMELY IMPORTANT CONFERENCE. WHILE I HAVE BEEN UNABLE TO PARTICIPATE IN YOUR DELIBERATIONS OVER THE PAST FEW DAYS, ASSISTANT ATTORNEY GENERAL BOB MUELLER HAS KEPT ME POSTED ON YOUR CONTINUING PROGRESS. I COMMEND YOU ON THE CRITICAL WORK YOU HAVE DONE TO INCREASE COOPERATION BETWEEN PACIFIC RIM COUNTRIES IN THE ATTACK ON ASIAN ORGANIZED CRIME.

AS WE ENTER THIS NEW DECADE AND LOOK AHEAD TO THE CHALLENGE FACING LAW ENFORCEMENT, PARTICULARLY ON AN INTERNATIONAL BASIS, ONE WORD SUMMARIZES AN ESSENTIAL -- PERHAPS THE ESSENTIAL -- INGREDIENT FOR SUCCESS. THAT WORD IS COOPERATION. IN THE LAST DECADE, THE 1980s, ALL OF US IN LAW ENFORCEMENT LEARNED HOW IMPORTANT COOPERATION IS IN THE FIGHT AGAINST THE RAPIDLY GROWING SIZE, SOPHISTICATION AND STRUCTURE OF ORGANIZED CRIME.

HERE IN THE UNITED STATES, FEDERAL, STATE AND LOCAL LAW ENFORCEMENT FORGED NEW AND UNPRECEDENTED INVESTIGATIVE ALLIANCES. AS THE DECADE UNFOLDED, MAJOR DRUG TRAFFICKING AND OTHER ORGANIZED CRIME PROSECUTIONS ROUTINELY BECAME THE PRODUCT OF MULTI-AGENCY AND MULTI-GOVERNMENT COOPERATION. WITH LAW

ENFORCEMENT AGENCIES AROUND THE COUNTRY, IMPRESSIVE RESULTS REPLACED LONG-STANDING RIVALRIES.

WHY THIS FUNDAMENTAL CHANGE IN OUR MUTUAL LAW ENFORCEMENT OPERATIONS? THE ANSWER IS QUITE SIMPLE; THE COMPLEXITY OF CRIMINAL CONDUCT DEMANDED IT. THE DISTRIBUTION OF DRUGS REQUIRES CONSPIRACIES OF A MULTI-JURISDICTIONAL AND MULTINATIONAL DIMENSION: MANUFACTURING IS DEPENDENT ON ACCESS TO RAW MATERIALS AND CHEMICALS; SMUGGLING REQUIRES INTERNATIONAL AND INTERSTATE TRANSPORTATION; TURF WARS ARE FOUGHT WITH ILLEGALLY SHIPPED FIREARMS; AND THE LAUNDERING OF PROFITS NECESSITATES THE USE OF COMMERCIAL BANKS. INDEED, WITHOUT COOPERATION, ENFORCEMENT OF CRIMINAL LAWS HAS BECOME VIRTUALLY IMPOSSIBLE. WE SIMPLY CANNOT AFFORD TO LET THE CRIMINAL GROUPS BECOME MORE ORGANIZED AND SOPHISTICATED THAN LAW ENFORCEMENT.

AND SO WE MEET HERE THIS WEEK AS PART OF THE UNFOLDING STORY OF COOPERATION IN LAW ENFORCEMENT. FACED WITH THE VIOLENT REALITY OF EXPANDING ORGANIZED CRIMINAL ACTIVITY WITHIN THE ASIAN COMMUNITIES, LAW ENFORCEMENT AUTHORITIES IN THE PACIFIC RIM COUNTRIES MUST INCREASE THEIR COOPERATIVE EFFORTS. FOR THE EAST-WEST CRIMINAL WORLD IS SHOWING ITS FACE WITH ALARMING VITALITY.

LET ME GIVE YOU TWO DEADLY EXAMPLES OF SUCH EAST-WEST CRIMINAL ACTIVITY. FIRST, FROM A CHINESE GANG THAT OPERATED OUT OF QUEENS IN NEW YORK, CALLED THE GREEN DRAGONS. THE GREEN

DRAGONS ARE PRESENTLY CHARGED UNDER OUR RACKETEERING LAW, KNOWN AS RICO, WITH EXTORTION, KIDNAPPING, AND HOMICIDE. THEIR KILLINGS ALLEGEDLY INCLUDE THE ASSASSINATION OF A RIVAL GANG LEADER IN QUEENS, THE EXECUTION OF A WITNESS AND HER COMPANION OUT IN THE WOODS OF LONG ISLAND, AND THE SLAYING OF A RESTAURANT OWNER IN CHINATOWN.

THE LEADER OF THE GANG IS KNOWN AS "FOOCHOW PAUL," AND FROM WHERE DID FOOCHOW PAUL ISSUE HIS ORDERS TO GREEN DRAGONS? FROM MAINLAND CHINA. AND HOW DID HE COMMUNICATE THESE ORDERS TO HIS STREET BOSS -- "TONY CHAN"? BY CELLULAR TELEPHONE.

THE SECOND EXAMPLE COMES FROM TOMORROW MORNING'S NEWSPAPER. ONLY A FEW HOURS AGO, I ANNOUNCED THE INDICTMENT OF 11 MEMBERS OF THE "BORN TO KILL" GANG, A VIETNAMESE STREET GANG IN NEW YORK CITY. THEY TOO HAVE BEEN CHARGED UNDER RICO FOR CRIMINAL ACTIVITIES INCLUDING MURDER, ROBBERY AND EXTORTION. AND AS A MODEL OF THE COOPERATION I HAVE JUST DESCRIBED, THE CASE HAS INVOLVED THE COOPERATIVE WORK OF A FEDERAL AGENCY, THE OFFICES OF ONE FEDERAL AND TWO STATE PROSECUTORS, AND THE POLICE DEPARTMENTS OF THREE CITIES.

THE WORLDWIDE REACH OF ASIAN ORGANIZED CRIME IS SOMETHING YOU THOROUGHLY UNDERSTAND, AND HAVE DONE MUCH TO FIGHT WITHIN YOUR OWN JURISDICTIONS. BUT HERE YOU HAVE BEEN ABLE TO MEET TOGETHER -- ONE OF THE LARGEST GATHERINGS OF LAW ENFORCEMENT

OFFICIALS EVER ASSEMBLED FROM AROUND THE PACIFIC RIM. YOU ARE OVER 100 STRONG FROM ELEVEN DIFFERENT NATIONS. FOR THE FIRST TIME, ASIAN LEGAL OFFICERS -- FROM MALAYSIA, SINGAPORE, KOREA, THAILAND, JAPAN, AND HONG KONG -- HAVE MET WITH THEIR WESTERN COUNTERPARTS TO DISCUSS THE PERILS WE MUST ALL MUTUALLY FACE. YOU ARE THE TOP LAW ENFORCEMENT PERSONNEL FOR THE LARGEST WATERFRONT PRECINCT IN THE WORLD.

TODAY, I WANT TO ASSESS THE CHALLENGES THAT LIE AHEAD OF US -- IN JUST THOSE TERMS. HOW CAN WE BEST POLICE THIS VAST PRECINCT THAT STRETCHES ACROSS THE ENTIRE PACIFIC OCEAN? WHAT THREATS DO WE FACE ALONG THOSE WATERFRONTS, AND BEHIND THOSE COASTLINES, ON OUR LONG PATROL AROUND THE PACIFIC RIM? AND WHAT SOLUTIONS CAN WE DEVELOP, TO BE PURSUED IN COMMON, DESPITE OCEANIC DISTANCES?

FIRST, LET THERE BE NO DOUBT HOW ALERT WE ARE TO THE VIOLENCE AND INTIMIDATION AND CORRUPTION THAT ASIAN ORGANIZED CRIME IMPOSES UPON ALL OUR SOCIETIES -- BOTH BY ANCIENT CRIMINAL RITES AND MODERN CRIMINAL METHODS.

ALL AROUND THE RIM, WE ARE DEALING WITH RISING PARTICIPATION BY THE "TRIADS" AND OTHER GANGS IN THE DRUG TRADE. IN MANY OF OUR CITIES, WE ARE FACING THESE SAME GANGS -- ARMED WITH CONTRABAND WEAPONS, AND ENGAGED IN EXTORTION, ROBBERY, AND MURDER. AND THROUGHOUT THE PACIFIC, WE ARE UP AGAINST

SOPHISTICATED OPERATIONS BY ASIAN ORGANIZED CRIME TO UNDERWRITE THEIR CRIMINAL ENTERPRISES BY LAUNDERING ILLEGAL PROFITS.

I AM WELL AWARE, AS I STAND HERE TODAY, THAT MUCH OF THIS CRIME DEPENDS UPON THE ENORMOUS APPETITE OF TOO MANY AMERICAN CITIZENS FOR DRUGS. THIS IS A TRAGEDY OF OUR TIME AND THE DESTRUCTIVE CONSEQUENCES OF THIS CONTINUING DEMAND FOR DRUGS REMINDS US THAT THE VITALITY OF ANY CIVILIZATION IS DEPENDENT UPON SELF-RESTRAINT. AND ON THE ISSUE OF SELF-RESTRAINT, THE U.S. CAN LEARN MUCH FROM ITS ASIAN NEIGHBORS. MEANWHILE, WE MUST CONTINUE TO PURSUE INTERNATIONAL CRIMINAL ENTERPRISES THAT MARKET DRUGS TO MEET THIS UNACCEPTABLE DEMAND.

WHILE COCAINE IS STILL KING OF THE U.S. STREETS, THERE IS A NEW AND GROWING DEMAND IN THIS COUNTRY FOR HEROIN -- A RETURN TO THE SCOURGE OF THE 1960s AND 1970s. AND A MAJOR SUPPLIER IS ASIAN ORGANIZED CRIME, WHICH HAS RUN UP ITS SHARE OF THE U.S. HEROIN MARKET FROM 14 PERCENT IN 1984 TO 56 PERCENT AT PRESENT.

RECENT ACCOMPLISHMENTS

JUST THIS PAST MAY, U.S. CUSTOMS AND DEA SPECIAL AGENTS CAUGHT UP WITH A 1,180-POUND SHIPMENT OF HEROIN TO THE JOIN SUN CORPORATION IN HAYWARD, CALIFORNIA -- FROM THAILAND. THE HEROIN WAS DISGUISED AS LARGE CHEESE WHEELS, COVERED WITH WAX. BUT ASTUTE POLICE WORK LED TO THE ARREST OF JUI CHANG CHEN (JIM CHEN)

AND NUMEROUS CHEN RELATIONS AROUND THE COUNTRY -- AN EXTENDED CRIME FAMILY, ALL IN ITSELF.

WE ARE HEARTENED BY THIS LARGEST HEROIN SEIZURE EVER -- WORTH \$3 BILLION IN STREET SALES. BUT WE KNOW THAT ILLICIT PROFITS FROM UNDETECTED DRUG TRANSACTIONS REMAIN FAR MORE STAGGERING. AND WE ALSO KNOW THESE PROFITS ARE VANISHING INTO SECRET ELECTRONIC DEPOSITS ALL AROUND THE RIM.

BUT ONCE AGAIN, WE ARE HEARTENED BY RECENT ACTIONS IN HONG KONG TO STOP THE MONEY-LAUNDERING OF ILLICIT FUNDS BY ASIAN BANKS. SINCE JANUARY, HONG KONG HAS PROVIDED LEGALLY FOR FORFEITURE OF FUNDS UNCOVERED IN MONEY-LAUNDERING OPERATIONS. TO DATE, HONG KONG AUTHORITIES HAVE FROZEN \$32 MILLION IN ILLICIT BANK DEPOSITS. AND IN THIS COUNTRY, WE HAVE SUCCESSFULLY BROUGHT FORFEITURE ACTIONS FOR \$10 MILLION, VIA CRIMINAL INFORMATION UNDER THESE SAME HONG KONG PROVISIONS.

SUGGESTIONS FOR THE FUTURE

SUCH ACHIEVEMENTS DO MUCH TO ENCOURAGE OUR HOPES FOR IMPROVED LAW ENFORCEMENT, EVERYWHERE AROUND THE RIM. AND CONFERENCES SUCH AS THESE ARE ABSOLUTELY VITAL TO ACHIEVING THOSE HOPES. I CAN ASSURE YOU OF MY PERSONAL COMMITMENT TO THIS EFFORT. THE WORK OF THIS CONFERENCE WILL BE VIGOROUSLY PURSUED BY THE DEPARTMENT OF JUSTICE. AMONG STRATEGIES OFFERED TO FIGHT

ASIAN ORGANIZED CRIME, YOU HAVE SUGGESTED SEVERAL MEASURES, WHICH WE STRONGLY SUPPORT.

* FIRST, INCREASING THE USE OF MULTINATIONAL TRAINING AND CROSS-ASSIGNMENT OF PERSONNEL, TO OVERCOME CULTURAL AND LINGUISTIC OBSTACLES TO INTERNATIONAL INVESTIGATIONS. I WILL TELL YOU FRANKLY THAT THE UNITED STATES BADLY NEEDS SUCH TRAINED PERSONNEL TO DEAL WITH THE ASIAN GANGS ON OUR OWN SHORES.

* SECOND, INCREASING THE ADOPTION OF MUTUAL LEGAL ASSISTANCE TREATIES (MLATs), WHICH DO SO MUCH TO FURTHER POLICE COOPERATION IN MULTINATIONAL INVESTIGATIONS.

* THIRD, INCREASING THE USE OF INTERPOL FACILITIES IN AID OF EXTRADITIONS. TRANSMITTING "RED NOTICES" CAN HELP CONFIRM OR IDENTIFY THE LOCATION OF FUGITIVES WHO ARE WANTED IN OTHER COUNTRIES. SUCH FUGITIVES CAN THEN BE PUT UNDER LOCAL SURVEILLANCE, PENDING FORMAL REQUEST FOR THEIR ARREST.

* FOURTH, ENACTING UNIFORM ASSET FORFEITURE LAWS TO FACILITATE THE SEIZURE AND FORFEITURE OF ILLICIT ASSETS IN THE COUNTRY WHERE THE ASSETS ARE GENERATED, OR HIDDEN.

* FIFTH, SIGNING, RATIFYING, AND FULLY IMPLEMENTING THE UNITED NATIONS VIENNA CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES. THE UN CONVENTION

OFFERS A GREAT ADVANTAGE IN ATTACKING DRUG-TRAFFICKING AND MONEY-LAUNDERING CASES. ANY SIGNATORY BENEFITS FROM A WIDE RANGE OF ADDITIONAL ASSISTANCE THROUGH THE CONVENTION'S BUILT-IN MLAT PROVISION. ALL SIGNATORIES ARE REQUIRED TO COME TO THE ASSISTANCE OF EACH SIGNATORY NATION'S DRUG INVESTIGATIONS.

* SIXTH, ENGAGING IN WIDER ELECTRONIC SURVEILLANCE AND LONG-TERM UNDERCOVER OPERATIONS AGAINST ASIAN CRIMINAL ENTERPRISES. WE SHOULD EXTEND ACROSS THE RIM THE ELECTRONIC NET IN WHICH WE HAVE ALREADY CAUGHT SUCH GANGS AS THE GREEN DRAGONS.

* AND SEVENTH, ENACTING WIDER-RANGING CRIMINAL LAWS, SIMILAR TO THE RICO STATUTE IN THE UNITED STATES, SO THAT ASIAN ORGANIZED CRIME GROUPS CAN BE EFFECTIVELY SHUT DOWN AS CRIMINAL ENTERPRISES. THERE IS A CERTAIN FUTILITY TO BRINGING PROSECUTIONS AGAINST ENDLESS INDIVIDUALS FOR MINOR CRIMINAL OFFENSES. THE GANG AS A WHOLE MUST BE ATTACKED FOR ITS CONSPIRATORIAL AND BRUTAL METHODS, WHICH FURTHER GREED AND EXPLOITATION, LOCAL TERROR, COMMUNAL SILENCE, AND THE SURVIVAL OF VICIOUS LEADERSHIP.

AND THIS LAST POINT CONTAINS PERHAPS THE MOST IMPORTANT LESSON WE IN LAW ENFORCEMENT HAVE PAINFULLY LEARNED ABOUT ORGANIZED CRIME. ORGANIZED CRIME GROWS MALIGNANTLY IN TWO WAYS: THROUGH THE SWORN SILENCE OF ITS MEMBERS, AND THE TERRIFIED SILENCE OF ITS VICTIMS. AN ORGANIZED GANG IS ONLY BROKEN BY THE

LAW WHEN EITHER ONE, OR PREFERABLY BOTH, OF THESE SILENCES IS ITSELF BROKEN.

AND HERE IS HOW THAT GENERAL RULE TRANSLATES INTO OUR EXPERIENCE IN THIS COUNTRY, TO DATE, WITH ASIAN ORGANIZED CRIME. CONSIDER THREE SEPARATE ASIAN GANGS THAT ARE PRESENTLY UNDER INDICTMENT OR ON TRIAL. THE GREEN DRAGONS IN NEW YORK ARE CHINESE, THE CRIMINAL FACTION WITHIN ON LEONG IN CHICAGO IS CHINESE, AND "BORN TO KILL", ALSO OPERATING IN NEW YORK, IS COMPOSED OF YOUNG MEN BORN IN VIETNAM. AND "BORN TO KILL" HAS ALLEGEDLY MOVED ITS MURDEROUS ATTACKS TO SPECIFIC LOCATIONS WHERE IT CAN ROB AND KILL VIETNAMESE.

WHY? BECAUSE PART OF THEIR BRUTAL METHOD IS TO FORCE THEIR VICTIMS -- KNOWN TO THEM, WITHIN THEIR OWN ASIAN COMMUNITIES -- INTO TERRIFIED SILENCE. THEY NOT ONLY ROB AND KILL THEIR OWN COMPATRIOTS BUT THREATEN THOSE WHO MAY SURVIVE WITH EVEN GREATER TORMENT, SHOULD THEY EVER SPEAK OF THESE CRIMES TO THE POLICE.

AND I CAN THINK OF NO GREATER IMPETUS FOR MORE INTENSIFIED LAW-ENFORCEMENT COOPERATION AROUND THE PACIFIC RIM. IT IS UP TO ALL OF US, WORKING TOGETHER, TO HELP SAVE THESE LAW-ABIDING, ASIAN RESIDENTS -- MANY OF THEM NOW AMERICAN CITIZENS -- FROM THE GRIP OF THIS UNWARRANTED TERROR. AT THE DEPARTMENT OF JUSTICE, WE STAND READY TO ACT AGAINST THESE GANG BRUTALITIES. AND I KNOW I CAN COUNT UPON EVERY LAW ENFORCEMENT OFFICER HERE TODAY TO HELP

US KEEP THE SAFETY OF HEARTH AND HOME A REALISTIC PROSPECT FOR ANYBODY COMING TO OUR SHORES -- FROM ACROSS THAT GREAT EXPANSE OF OCEAN -- IN SEARCH OF THAT PROMISE OF PEACE WE ALL DEEPLY SHARE TOGETHER.

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Section: NATION INSIDE THE BELTWAY

John Elvin THE WASHINGTON TIMES

Chapter and verse

Agency for International Development honcho Ron Roskens is ready to fire back if anyone comes gunning for him. He has revealed that he takes meticulous notes and has "material at hand if I should decide to write a book, and I might."

Mr. Roskens, whose creative use of government expense money prompted an investigation that was reviewed by the Justice Department before being sent along to White House Counsel Boyden Gray, told a reporter that he might write about being ousted as president of the University of Nebraska prior to joining AID. And he also might write about the controversy surrounding him at AID.

Mr. Roskens' critics suggest he engineered the story about the book as a threat to higher-up officials who might be considering replacing him. He has certainly been effective at keeping a lid on the story of his dismissal at the university, where officials have repeatedly declined to discuss the matter.

The information about the book Mr. Roskens might write surfaced in the Omaha World Herald in an article that included quotes from a story in The Washington Times. Mr. Roskens allowed that questions about his expense account have been raised, but that AID has "revised a number of procedures that will make us more reponsive and also more accountable."

"This is very political," Mr. Roskens concluded.

Catty Kelley show

Kitty Kelley sure dove for cover after that book, "Poison Pen," by George Capozzi Jr. put her through the same mill she's so adept at putting others through. "She ignores telegrams, won't answer letters and avoids phone calls by using her machine 24 hours a day," we hear.

And, according to a privately circulated newsletter written by publisher Lyle Stuart, "Kitty has put her Georgetown house on the market and wants to move to Los Angeles."

Whatever would Miss Kitty do with herself out in tinseltown? She wants to do a talk show. Interestingly, when she tried to get in to the studio where Ron Reagan was taping his now-defunct talk show, she was told, "Absolutely not." Young Ron may not be following in his father's ideological footsteps, but he's got some of the old man's smarts.

Next at Commerce

Sources on the West Coast are floating the name of Ron Cedillos, a Huntington Beach, Calif., aerospace businessman and Republican Party fund-raiser, as having a good shot at joining the Bush Cabinet. His name also popped up in a national political column as likely to succeed Commerce Secretary Robert Mosbacher, who will be managing the president's re-election campaign. Mr. Cerillos isn't the only contender for the job, but he meets administration requirements. Columnists Roland Evans and Robert Novak say the administration wants a Hispanic businessman from California for the post.

Barr's agenda

One of the issues at the top of the agenda of Attorney General-designate William P. Barr will be confronting the growing influence of Asian organized crime. While "cocaine is still king of the U.S. streets," Mr. Barr said there's been a surge in heroin use. The majority of the heroin, he said, is smuggled in by Asian organized crime.

Mr. Barr made his remarks to a recent powwow of law officers from 11 countries held in San Francisco. The focus of the meeting, the largest of its type ever held, was to try to come up with ways to counter the surge in drug dealing and violence linked to Asian organized crime. Officials attended from Japan, South Korea, Australia, Canada, Hong Kong, Malaysia, Singapore, Thailand, New Zealand, the Netherlands and the United States.

Mr. Barr called for an international exchange of personnel and greater cooperation in fugitive arrests and extraditions to combat Asian organized crime, which, he said, thrives on "the sworn silence of its members and terrified silence of its victims."

Club Scud

Sometimes we do take a look at The Washington Post. You know, when someone chucks a copy on a park bench after realizing they've got enough ink on their paws to run an FBI fingerprint lab for a week. Or maybe they got sick of stories celebrating the stigma of the week.

We enjoy the corrections column, like the Saturday apology to Sen. Bob Dole for quoting him as saying Sen. Ted Kennedy is "one of the great ones." What a hoot!

We also like the politically correct Doonesbury cartoons, especially when they feature that evil wretch known as Duke. It's sort of like reading Sherlock Holmes and rooting for Moriarty, you know? Now, Duke fans can show their support with a purchase from "the Club Scud collection," a line of clothing offering a \$355 Duke-emblazoned leather bomber jacket. The mail-order catalogue also features a camouflage bikini "so authentic in detailing that we absolutely guarantee the wearer cannot be spotted on a beach by a Blackhawk helicopter pilot flying by at 85 knots or better, unless she waves her arms a lot."

Another catalog feature is a \$25 set of fake press credentials. "If you and yours have ever tried to attend a White House or Pentagon press briefing, then you know how hard it is to get good seats. Why? . . . Most people simply lack the time to apply to the Secret Service for clearance. Still others have criminal records," according to the catalog.

Garry Trudeau's share of the proceeds will be dumped into projects for the homeless, conservation, that kind of stuff. Hopefully ol' Duke ("But the pension fund was just sitting there") will figure a way to weasel in and make good use of the loot.

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PHOTO

Photo, Kitty Kelley is rumored to be headed to Hollywood, where cheap talk is a more appreciated and apt art form.

---- Index References ----

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NewsRoom

REMARKS OF THE ACTING ATTORNEY GENERAL
SIGNING OF THE UNITED STATES-EC
ANTITRUST COOPERATION AGREEMENT
SEPTEMBER 23, 1991

SIR LEON BRITTAN, AMBASSADOR VAN AGT AND MEMBERS OF THE EUROPEAN COMMUNITY DELEGATION, COLLEAGUES, AND FRIENDS:

IT IS AN HONOR FOR ME TO REPRESENT THE UNITED STATES AND THE DEPARTMENT OF JUSTICE IN THE SIGNING OF THIS DOCUMENT TODAY. IT IS AN AGREEMENT THAT BOTH CONFIRMS AND EXTENDS THE CLOSE TIES BETWEEN THE UNITED STATES AND THE EUROPEAN COMMUNITY IN THE AREA OF INTERNATIONAL ANTITRUST ENFORCEMENT.

IN OUR JOINT DECLARATION ON U.S.-EC RELATIONS LAST AUTUMN, THE UNITED STATES AND THE EUROPEAN COMMUNITY REAFFIRMED THEIR DETERMINATION TO STRENGTHEN THEIR PARTNERSHIP TO PURSUE A BROAD RANGE OF COMMON POLITICAL AND ECONOMIC OBJECTIVES. AMONG THE IMPORTANT OBJECTIVES SET OUT IN THE DECLARATION WERE THE PROMOTION OF MARKET PRINCIPLES, THE REJECTION OF PROTECTIONISM, AND THE FURTHERING OF OUR ONGOING DIALOGUE ON COMPETITION POLICY.

THE INCREASING INTEGRATION OF OUR ECONOMIES AND THE EMERGENCE OF AN INTERNATIONAL BUSINESS ENVIRONMENT MAKE COOPERATION BETWEEN OUR GOVERNMENTS IN THE AREA OF ANTITRUST ENFORCEMENT ABSOLUTELY ESSENTIAL. THE AGREEMENT WE ARE SIGNING TODAY GROWS OUT OF A SHARED COMMITMENT TO ANTITRUST ENFORCEMENT AS A CORNERSTONE OF OUR MARKET ECONOMIES. ANTITRUST LAW HAS BEEN

PART OF THE AMERICAN EXPERIENCE FOR OVER A CENTURY, AND IT HAS BECOME FUNDAMENTAL TO OUR NATION'S LEGAL AND ECONOMIC FRAMEWORK. THE VISIONARY FOUNDERS OF THE EUROPEAN COMMUNITY, RECOGNIZING THE INEXTRICABLE TIES BETWEEN COMPETITION LAW, MARKET PRINCIPLES AND THE VALUES OF INDIVIDUAL FREEDOM AND DEMOCRACY, ROOTED EC COMPETITION LAW FIRMLY IN THE COMMUNITY CONSTITUTION, THE TREATY OF ROME. SO IT IS ESPECIALLY FITTING THAT WE WHO SHARE THIS COMMITMENT SHOULD STRENGTHEN OUR RELATIONSHIP IN THIS AREA WITH THE AGREEMENT WE HAVE SIGNED TODAY.

THE CONSTRUCTIVE DIALOGUE ESTABLISHED AMONG OUR CHIEF NEGOTIATORS -- ASSISTANT ATTORNEY GENERAL JIM RILL AND FTC CHAIRMAN JANET STEIGER FOR THE UNITED STATES, AND DIRECTOR-GENERAL CLAUS EHLERMANN FOR THE EUROPEAN COMMISSION -- BODES WELL FOR OUR FUTURE COOPERATION. WE HAVE REACHED A BALANCED AGREEMENT, REFLECTING OUR GENUINE DESIRE TO COOPERATE IN ANTITRUST ENFORCEMENT. THE AGREEMENT WAS DRAFTED IN RECOGNITION THAT IN OUR GLOBAL ECONOMY EFFECTIVE ANTITRUST ENFORCEMENT WILL OFTEN FOCUS ON TRANSNATIONAL CONDUCT, AND THAT OUR CONSUMERS AND OUR INDUSTRIES WILL BE BEST SERVED BY OUR CLOSE COOPERATION AND COORDINATION. THE AGREEMENT ALSO RECOGNIZES THERE MAY BE SITUATIONS WHERE DIFFERENCES ARISE, AND IN THOSE CASES, WE WILL SEEK TO TAKE ACCOUNT OF THE OTHER'S IMPORTANT INTERESTS THROUGH THE SOUND APPLICATION OF COMITY PRINCIPLES.

I BELIEVE WE HAVE BEFORE US WHAT WILL BE A VERY EFFECTIVE MECHANISM FOR COOPERATION. FOR OUR PART, WE WILL DO EVERYTHING

IN OUR POWER TO MAKE IT WORK.

GOOD AFTERNOON, AND WELCOME TO THIS CELEBRATION OF NATIONAL HISPANIC HERITAGE MONTH.

OUR PURPOSE TODAY IS TO CELEBRATE THE GREAT CULTURAL LEGACY THAT IS AMERICA'S HISPANIC HERITAGE, AND TO RECOGNIZE AND APPLAUD THE CONTRIBUTIONS THAT HISPANIC EMPLOYEES HAVE MADE TO THE DEPARTMENT. IT IS A GREAT PLEASURE FOR ME TO BE A PARTICIPANT IN THIS IMPORTANT PROGRAM AND TO BE HERE WITH MY COLLEAGUES AND FRIENDS OF THE DEPARTMENT.

OUR THEME FOR THIS YEAR'S PROGRAM IS "A CULTURAL MOSAIC." THAT IS A PARTICULARLY APT METAPHOR. INDEED, HISPANICS HAVE BEEN CONTRIBUTING TO THE UNIQUE MOSAIC THAT IS AMERICAN FOR NEARLY FIVE CENTURIES. THEY HAVE BEEN FUNDAMENTAL IN THE DEVELOPMENT OF THE AMERICAS, NORTH AND SOUTH. IN FACT, THEY HAVE LAID THE CORNERSTONES OF THE AMERICAN MOSAIC.

WE MUST REMEMBER THAT THIS IMPRESSIVE HERITAGE IS NOT MERELY SOMETHING TO BE FOUND IN HISTORY BOOKS. THE RICH TEXTURES OF HISPANIC CULTURE TOUCH OUR LIVES DAILY, IN OUR LANGUAGE, OUR ART, OUR ARCHITECTURE, IN VIRTUALLY EVERY ASPECT OF OUR SOCIETY. IT IS A LIVING, DYNAMIC INFLUENCE ON AMERICAN LIFE, AND ITS INFLUENCE IS STEADILY INCREASING -- AN INFLUENCE FOR THE BETTER. THE 1990 CENSUS SHOWS THAT THE HISPANIC POPULATION IN AMERICA HAS BEEN GROWING AT AN EXTRAORDINARY PACE, AND INCREASED GROWTH RATES ARE EXPECTED.

MOREOVER, HISPANICS ARE NOW REPRESENTED IN VIRTUALLY EVERY AREA OF THE COUNTRY, AND ARE NO LONGER CONCENTRATED PRINCIPALLY IN THE SOUTHWESTERN AND WESTERN STATES.

THE MOST RECENT HISPANIC IMMIGRANTS TO THE UNITED STATES ARE PLAYING OUT AN AGES-OLD AMERICAN DRAMA. THEY ARE ARRIVING HERE OFTEN WITH LITTLE MORE THAN HOPES AND ASPIRATIONS --- THE DREAMS SHARED BY SO MANY PREVIOUS IMMIGRANT GROUPS TO THIS LAND. BUT THEY ALSO BRING TO AMERICA A RICH GIFT. THEY BRING BRIGHT NEW TITLES TO SET INTO THE AMERICAN CULTURAL MOSAIC.

THE HISPANIC COMMUNITY EMBODIES CERTAIN STRONG VALUES THAT STAND OUT, WHICH ARE MUCH NEEDED IN TODAY'S WORLD, AND CAN SUSTAIN OUR CHARACTER AS A NATION. THESE VALUES INCLUDE A DEEP-ROOTED COMMITMENT TO A WORK ETHIC; STRONG MORAL VALUES THAT FLOW FROM A STRONG SENSE OF RELIGIOUS DEVOTION; AND A DEEP COMMITMENT TO THE FAMILY. (INTERJECT BUSH/FUJIMORI ANECDOTE.)

AMERICA HAS BENEFITED GREATLY FROM THE CULTURAL GIFTS BESTOWED UPON HER BY VARIOUS ETHNIC GROUPS. WE CAN ONLY HOPE THAT OUR SOCIETY WILL INCREASINGLY EMBRACE THE VALUES OF SO MANY IN THE HISPANIC COMMUNITY. IF AMERICANS HEED THESE FINE EXAMPLES, THE HISPANIC CONTRIBUTION TO THE AMERICAN MOSAIC, ALREADY SUBSTANTIAL, WILL BE GREATER THAN EVER.

AT DOJ, WE FEEL ESPECIALLY STRONGLY ABOUT NATIONAL HISPANIC HERITAGE MONTH. WE HAVE A WELL-ESTABLISHED TRADITION OF ANNUALLY

AT DOJ, WE FEEL ESPECIALLY STRONGLY ABOUT NATIONAL HISPANIC HERITAGE MONTH. WE HAVE A WELL-ESTABLISHED TRADITION OF ANNUALLY CELEBRATING IT. MORE IMPORTANTLY, WE ARE ESPECIALLY PLEASED THAT OUR DEPARTMENT HAS THE LARGEST PERCENTAGE OF HISPANICS OF ALL GOVERNMENT DEPARTMENTS. IN FACT, AT 9.6%, OUR HISPANIC PRESENCE IS ACTUALLY HIGHER THAN THAT OF THE GENERAL POPULATION.

THESE FIGURES ARE ENCOURAGING, BUT WE ARE NOT RESTING ON PAST ACCOMPLISHMENTS. WE WILL MOVE FORWARD TO ENSURE THAT OPPORTUNITIES ARE OPEN TO HISPANICS IN ALL AREAS, AND ALL LEVELS, OF THE DEPARTMENT. I HAVE CHARGED ALL MANAGERS AND HIRING OFFICIALS TO EXAMINE OUR RECRUITMENT, SELECTION AND PROMOTION POLICIES AND PROCEDURES, TO ACHIEVE THESE GOALS.

JIMMY GURULE, THE ASSISTANT ATTORNEY GENERAL AT THE OFFICE OF JUSTICE PROGRAMS, IS CHAIRING A COMMITTEE OF SENIOR DOJ OFFICIALS TO LOOK INTO THE RECRUITING, HIRING, UPWARD MOVEMENT AND RETENTION OF OUR ATTORNEYS. IN PARTICULAR, THE COMMITTEE MEMBERS ARE CHARGED WITH LOOKING AT IMPROVING OUR RECORD OF EMPLOYING AND RETAINING WOMEN, MINORITY, AND DISABLED ATTORNEYS.

AMERICA OWES A GREAT DEBT TO THE HISPANICS SERVING IN THE DEPARTMENT OF JUSTICE. EVERY DAY, IN THE WAR ON DRUGS, ON OUR NATION'S BORDERS, IN OUR COURTROOMS, AND IN OUR CORRECTIONAL INSTITUTIONS, AND THROUGHOUT THE JUSTICE SYSTEM, HISPANICS ARE WORKING ON BEHALF OF THE CAUSE OF JUSTICE AND A SAFER AMERICA.

ONE PARTICULAR EXAMPLE THAT COMES TO MIND IS THE CASE OF DEA SPECIAL AGENT KIKI CAMERENA. AGENT CAMERENA CAME TO AMERICA FROM HIS NATIVE MEXICO, FILLED WITH A SENSE OF DUTY. SERVED HIS NEW HOMETLAND, FIRST AS A POLICEMAN, AND LATER AS AN AGENT FOR THE DEA.

KIKI CAMARENA WAS DEEPLY COMMITTED TO WINNING THE WAR ON DRUGS. HIS PEERS REGARDED HIM AS ONE OF THE MOST ACTIVE, AGGRESSIVE AND EFFECTIVE AGENTS AT THE DEA. HE WAS RESPONSIBLE FOR THE SEIZURE OF LARGE AMOUNTS OF ILLEGAL DRUGS. HE WAS SO EFFECTIVE IN STEMMING THE TIDE OF DRUGS INTO AMERICA THAT HE WAS KIDNAPPED, TORTURED AND KILLED BY THE GUADALAJARA DRUG CARTEL.

KIKI CAMARENA GAVE SO MUCH TO AMERICA; HE GAVE OF HIMSELF, AND ULTIMATELY GAVE HIS LIFE. IT WAS A HIGHLY HONORABLE LIFE, COMMITTED TO JUSTICE AND DECENCY.

HIS LEGACY LIVES ON. MANNY MADRANO, WHO PULLED HIMSELF UP FROM THE PROJECTS OF EL PASO TO ATTEND HARVARD LAW SCHOOL - AND THEN SERVED AS AN ASSISTANT UNITED STATES ATTORNEY FOR THE PAST EIGHT YEARS, WAS THE LEAD PROSECUTOR OF AGENT CAMARENA'S MURDERERS. ROEL CAMPOS ASSISTED IN THE PROSECUTIONS. AND JIMMY GURULE WAS THE ASSISTANT U.S. ATTORNEY WHO BEGAN THE PROSECUTION THAT HAS LED TO DATE THE CONVICTION OF SEVEN MEN INVOLVED WITH THE MURDER OF KIKI CAMARENA. YES, HIS COMMITMENT TO DUTY LIVES ON.

TODAY, WE ARE RECOGNIZING SEVERAL OUTSTANDING HISPANIC MEMBERS OF THE DEPARTMENT IN ORDER TO HONOR THEIR OWN DEDICATION AND COMMITMENT TO DUTY. IN A LARGER SENSE, WE ARE HONORING THE ACHIEVEMENT AND PERFORMANCE OF ALL MEN AND WOMEN HISPANICS WORKING FOR JUSTICE IN AMERICA. THEIR EFFORTS AND ACHIEVEMENTS ARE A SOURCE OF GREAT PRIDE.

I CONGRATULATE EACH OF OUR HONOREES AND I THANK ALL OF YOU FOR YOUR PRESENCE HERE TODAY. IT IS NOW MY PLEASURE TO INTRODUCE TO YOU OUR ASSISTANT ATTORNEY GENERAL IN THE OFFICE OF JUSTICE PROGRAMS, JIMMY GURULE.

#

IT IS GREAT TO BE WITH YOU HERE IN WEST VIRGINIA.
TO JOIN THE PRESIDENT PRO TEMPORE OF SENATE -- SENATOR BYRD.
CONGRESSMAN MOLLAHAN, THE GOVERNOR AND OTHER SPECIAL GUESTS.
IN BREAKING GROUND FOR WHAT WILL BECOME ONE OF THIS NATION'S
MOST IMPORTANT FACILITIES.

AND IT IS APPROPRIATE THAT WE HAVE A CEREMONY TO MARK THIS
IMPORTANT PROJECT.

IT IS APPROPRIATE, BECAUSE WHAT WE ARE DOING HERE TODAY, IS
IN A SENSE, INAUGURATING A MARRIAGE.

THIS IS A MARRIAGE BETWEEN QUALITY PARTNERS. ON THE ONE
HAND, WE HAVE THE FEDERAL GOVERNMENT THROUGH THE FBI. FBI IS THE
VERY EPITOME OF QUALITY. THE FBI IS THE FINEST OVERALL LAW
ENFORCEMENT AGENCY IN THE WORLD.

THE AMERICAN PEOPLE ARE RIGHTLY PROUD THAT WE HAVE BUILT AND
SUSTAINED SUCH A PROFESSIONAL, DEDICATED, AND EFFECTIVE
INSTITUTION. AND ON THE OTHER HAND, WE HAVE THE QUALITY PEOPLE
AND RESOURCES OF WEST VIRGINIA.

I MUST RELY ON THE ELOQUENCE OF SENATOR BYRD IN DESCRIBING
THIS MARRIAGE PARTNER.

HE WRITES, IN HIS HISTORY OF THE UNITED STATES SENATE:

WEST VIRGINIA IS WHERE THE EAST SAYS GOOD MORNING
TO THE WEST,

AND WHERE YANKEE DOODLE AND DIXIE KISS EACH OTHER
GOODNIGHT.

IT IS THE STATE THAT IS "WILD AND WONDERFUL" AND
"ALMOST HEAVEN",

WITH ITS BEAUTIFUL HILLS AND ITS LAW-ABIDING GOD-
FEARING, AND PATRIOTIC PEOPLE.

* * * * *

THIS IS A GOOD MARRIAGE.

AND THROUGH THIS UNION, WE WILL ACHIEVE A CRITICAL GOAL.

OUR GOAL IS THE CONSTRUCTION OF A NEW NATIONAL
IDENTIFICATION CENTER. THE ABILITY TO RAPIDLY IDENTIFY SUSPECTS
IS THE LIFEBLOOD OF MODERN LAW ENFORCEMENT. THIS FACILITY WILL
PROVIDE THE STATE-OF-THE-ART LINKAGE NECESSARY FOR THE FBI TO
SERVE THE NEEDS OF THIS NATION WELL INTO THE NEXT CENTURY.

AS THE LARGEST REPOSITORY OF FINGERPRINTS IN THE WORLD, THIS
CENTER WILL BECOME A SOPHISTICATED HUB FOR THE SWIFT
IDENTIFICATION OF CRIMINALS. WE MARK THE END OF THE TIME WHEN
LOCAL POLICE DEPARTMENTS ACROSS THE COUNTRY MAILED IN INKED

CARDBOARD PRINTS. OUR NEW IDENTIFICATION FACILITY WILL ENABLE THE FBI TO IMMEDIATELY IDENTIFY CRIMINALS THROUGH SHARED DATA, CROSS-REFERENCE RECORDS AND ADVANCED FINGERPRINT ANALYSIS TECHNIQUES.

JUST AS OUR FBI TRAINING ACADEMY AT QUANTICO IS KNOWN ACROSS THE COUNTRY AS THE SITE WHERE OUR BRIGHTEST RECEIVE THE BEST CRIME-FIGHTING TRAINING AVAILABLE, SO ALSO WILL OUR NEW CLARKSBURG FACILITY SOON BECOME KNOWN TO LAW ENFORCEMENT AUTHORITIES NATIONWIDE AND AROUND THE WORLD AS THE PREMIER IDENTIFICATION CENTER -- THE WORLD LEADER AMONG IDENTIFICATION SERVICES AND TECHNOLOGY.

IN MY JUDGMENT, POLICE TERMINOLOGY OF THE FUTURE WILL INCLUDE THE TERM "CLARKSBURG" -- AND THAT NAME WILL BECOME SYNONYMOUS WITH STATE-OF-THE-ART TECHNOLOGY IN LAW ENFORCEMENT. THE BOTTOM LINE IS: CRIMINALS WILL GO TO JAIL WHO MIGHT OTHERWISE NOT BECAUSE CLARKSBURG EXISTS.

THOSE WHO WILL WORK AT OUR NEW IDENTIFICATION CENTER ARE NOT JUST RUNNING THE FINGERPRINT RECORDS -- THEY WILL BE HELPING TO MAKE ARRESTS. THEY WILL BE AT THE HEART OF OUR NATIONAL AND INTERNATIONAL EFFORT TO FIGHT BACK AGAINST THE TYRANNY OF CRIME.

THIS CENTER IS PART OF A STRONGER NATIONAL COMMITMENT TO EFFECTIVE LAW ENFORCEMENT.

SINCE TAKING OFFICE PRESIDENT BUSH HAS SOUGHT A 60% INCREASE
IN DOJ RESOURCES.

SENATOR BYRD HAS BEEN A STRONG AND KEY SUPPORTER OF THIS
EFFORT. I WANT TO EXPRESS OUR APPRECIATION TO SENATOR BYRD.

I ALSO WANT TO THANK THE PEOPLE OF THIS COUNTY FOR THE
EXCELLENT WORK YOU HAVE ALREADY DONE, AND I WANT TO OFFER THE
CONTINUING SUPPORT OF THE DEPARTMENT OF JUSTICE FOR THE REST OF
THE GREAT TASK THAT LIES AHEAD. I'M SURE THAT THE MARRIAGE
BETWEEN THE FBI AND WEST VIRGINIA WILL BE A LONG AND SUCCESSFUL
ONE.

THANK YOU AND GOOD LUCK

NewsRoom

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Section: TEMPO \

THE SENATOR IS GONE BUT HIS STAFF KEEPS GRINDING OUT `NEWS`

Glen Elsasser, Chicago Tribune.

Congress remains in a state of repose, but don't be fooled by all the silence. Although the members won't be officially back to work until Sept. 11, their offices keep cranking out the news releases.

The other day, for example, the office of Illinois Sen. Paul Simon informed the public, "Senate okays Simon measure hailing Yeltsin win and Soviets' Democratic presidential election."

It didn't seem to matter, as the release stated, that Boris Yeltsin was elected president of Russia on June 12 and that the Senate passed the Simon resolution July 29. August can be the slowest month.

- - -

Two enterprising gentlemen from Hamburg, N.Y., and Traverse City, Mich., have taken to task the congressional tradition of pork-barrel spending.

In the forward to their new cartoon-illustrated book currently making the rounds, Jack Thebo and Dale Neleman tell readers:

"Much of your taxes go to 'pork barrel' projects which are championed by your local legislator to gain favor with his constituents. To be sure, some of the programs and studies we poke fun at might have some real benefit to someone. Somewhere. Sometime. But on the surface, they sure seem a bit strange to say the least."

The team provides dozens of examples in their book, "So That's How They're Spending Our Money: Your Federal Taxes at Work," published by Neleman Enterprises of Hamburg, N.Y.

Among the curious items gleaned from the public record and publications:

U.S. taxpayers pay \$626,000 a year for the maintenance and care of heat and light fixtures for the vice president's residence; \$200,000 to study the

environmental impact of veterans' cemeteries in Illinois, New York, Ohio and Washington; and \$2.9 million for the Texas National Guard to dress up like cactus plants to monitor night-time drug traffic along the Mexican border.

It sounds like a shot in the dark, but Rep. John Boehner (R-Ohio) and a group of fellow freshman members have a solution for those unpopular congressional pay raises.

More than 200 years ago Congress sent to the states a proposed constitutional amendment that would delay any pay raise until after an intervening election. So far 35 states have ratified the amendment-3 states short of the number needed to become law.

The amendment, originally proposed by James Madison in 1789, was not ratified by enough states to become one of the original amendments in the Bill of Rights. Miraculously, however, the amendment contained no deadline for ratification and is still very much alive.

Boehner and a number of fellow freshmen-including Reps. Tom Ewing (R-Ill.), John Cox (D-Ill.), Scott Klug (R-Wis.) and Tim Roemer (D-Ind.)-have introduced a resolution urging the remaining states to ratify the amendment.

While a state legislator, Ewing introduced such a measure in the Illinois General Assembly. It has yet to come up for a vote, but the representative from Pontiac said he is convinced ``it is going to be part of the Constitution.``

Former Atty. Gen. Dick Thornburgh, whose stormy three years as the nation's chief law-enforcement officer ended Thursday, received his leather Cabinet chair from Justice Department employees as a farewell gift.

At a ceremony attended by dozens of department workers, Deputy Atty. Gen. William Barr made the presentation with a reference to this fall's U.S. Senate bid in Pennsylvania by Thornburgh, who tangled repeatedly with congressional committees.

``Someone said, 'Dick, wouldn't you rather be up there (in the Senate) dishing it out, rather than taking it?' `` Barr said. ``When Dick Thornburgh is up there dishing it out, we want him to remember where he came from.``

Quipped Thornburgh, taking his seat, ``Our solicitor general said it's no longer the hot seat.``

Believe it or not, the nation's first newsletter devoted to lobbying and ``the influence industry`` will be headquartered in Naples, Fla.-not

Washington, the supposed center of it all.

``It's a myth that the bulk of lobbying takes place in Washington,`` explains publisher Leslie Norins. ``True, there's a lot of power and money at work in the capital, but our research shows that only one-quarter of the country's 50,000 lobbyists are located here. The other three-quarters are spread across the U.S., dealing with state and local governments.``

--- **Index References** ---

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SUMMER OF THE OCTOPUS

MARY McGRORY

ONE THING in the sad murk is clear: Before he died, Danny Casolaro saw an octopus. He told his friend Bill Hamilton about it. The tentacles reached into all the scandals we are grappling with in this summer of conspiracies unlimited. The body of free-lance writer Joseph Daniel Casolaro was found in the bathtub of a West Virginia motel on a week ago Saturday. His arms were slashed. Martinsburg police pronounced it a suicide and proceeded to embalm the body with extraordinary haste -- before they got around to notifying Casolaro's family, which finally heard the news last Monday. His brother Anthony, an Arlington physician, doesn't believe it was suicide.

Nor does anyone who knew him -- or talked to him in his last days. One reason for the skepticism was the initial report that some wounds were jagged and supposedly self-inflicted with a broken beer bottle found next to the tub. A crime reporter -- Casolaro was a correspondent for Washington Crime News Service -- would have known better. But it was Casolaro's temperament and prospects that argue even more strongly. He was a happy, outgoing, gregarious person, the kind who cracks wise with secretaries and waitresses and endears himself to children. The day before he died, according to the Martinsburg Morning Journal, he told a Pizza Hut waitress that he liked her brown eyes, that he was a member of the Edgar Allan Poe Society. He quoted "The Great Gatsby" to her. He told his brother, his girlfriend, Hamilton and others that he was on the point of cracking the case that had absorbed him for a year. He had begun investigating the Inslaw case, a tangled affair of government perfidy and international intrigue that has been in litigation since 1983. In his explorations, he found out about possibly related scandals -- BCCI, S&Ls, Iran-contra, the "October surprise" -- but until two weeks ago, he had found nothing about Inslaw. Then, he joyfully told friends, he hit bingo. One more interview and the case was cracked. Suicides do not tell their intimates within days of taking the hemlock that they are "ecstatic" or "euphoric." Casolaro did. Nor do they attend family birthday parties, as Danny Casolaro was planning to do hours before he died. The last known call he made was to his mother in Fairfax. He told her he was on Interstate 81 in Pennsylvania. He would be late, but he was headed home. A manic-depressive might then kill himself. Nobody ever suggested that Danny Casolaro was one. All the circumstances beg for disbelief, none more than a supposed suicide note. "I'm sorry, especially to my son" -- from a man who lived by words -- just doesn't ring true. Casolaro wrote a novel, a children's book. His prose style -- at least as displayed in an outline he submitted to Little, Brown of a book he proposed to write about the octopus, called "Behold, a Pale Horse" -- is on the florid side. Such a terse farewell, unless composed or dictated at gunpoint, is entirely unconvincing. Subsequent reports about a second note, a razor blade in the tub and Casolaro's financial problems don't end the mystery. The man who could have resolved the Inslaw case, Dick Thornburgh, resigned as attorney general to run for the Senate in Pennsylvania on the day the West Virginia police came forward with their autopsy. Excess was the hallmark of Thornburgh's farewell ceremony: an honor guard, a trooping of the colors, superlatives from subordinates. William P. Barr, his deputy and possible successor, spoke of Thornburgh's "leadership, integrity, professionalism and fairness" -- none of which Thornburgh displayed in his handling of Inslaw.

Although the case involves the alleged theft of computer software by the Justice Department in the time of Ed Meese, Thornburgh took it to his bosom. Bill Hamilton, a perfectly nice midwesterner who owned a Washington firm called Inslaw, had invented Promis, a software especially adapted to crime statistics, which he sold to Justice. The second year, Justice stopped making payments. Hamilton and his wife, Nancy, believe that cronies of Meese were given the franchise to sell around the world. Promis has turned up in Canada and Pakistan. The link with the "October surprise" is Earl Brian, a former Reagan political associate who allegedly paid off the Iranians to keep the hostages until after the 1980 election -- and allegedly was paid off himself with huge profits from Promis. Thornburgh refused to discuss the Inslaw case with the Hamiltons or their counsel, Elliot Richardson. He did not answer Richardson's letters. He did not return his phone calls. He refused to receive his distinguished predecessor. The Hamiltons have been to court many times. Judges have recused themselves. Witnesses have disappeared or recanted. The man who knows the most, Michael Riconosciuto, was picked up in Washington State on drug charges and is in jail. What was merely sinister has now turned deadly. Thornburgh calls Inslaw "a little contract dispute" and refused to testify about it to the House Judiciary Committee. Richardson thinks it could be "dirtier than Watergate" and, as a victim of that scandal, he should know. Thornburgh's conduct is the most powerful argument for believing that Danny Casolaro really saw an octopus before he died. Mary McGrory is a Washington Post columnist.

---- **Index References** ----

Company: WASHINGTON POST CO (THE)

News Subject: (Social Issues (1SO05); Murder & Manslaughter (1MU48); Legal (1LE33); Crime (1CR87); Criminal Law (1CR79); Euthanasia (1EU98); Violent Crime (1VI27); Government Litigation (1GO18))

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Section: LOCAL

THIS TIME, CRIME PAYS FOR THE CRIMEFIGHTERS

Emilie Lounsberry, Inquirer Staff Writer

Roland Bartlett died last year in prison, but the booty of his lucrative heroin business was still flowing yesterday - into the hands of the law enforcement authorities who took him down.

Deputy U.S. Attorney General William P. Barr traveled to Philadelphia to do the distribution. He gave out checks totaling about \$280,000 to the state and local law enforcement groups that had worked on the federal investigation and prosecution.

"We turn around and use these resources to step up the attack on these criminals," Barr said at a news conference at FBI headquarters in Center City. "The cost of fighting crime is now borne in part by the criminals themselves."

In all, Barr gave out checks totaling nearly \$526,000 to 10 law enforcement agencies from New Jersey to Reading for their efforts in the Bartlett case or other drug cases, and the recipients eagerly held out their hands.

Philadelphia Police Commissioner Willie L. Williams, whose department received about \$206,000 for its assistance in several cases, joked that he had to rush off to deposit the money.

"I have to be out of here by 3 to get it in the bank," said Williams, who said the money would be put to quick use.

The money was doled out under the federal Asset Forfeiture program, which provides that assets seized from drug dealers be shared with the local law enforcement agencies that cooperated in the investigations.

In the Bartlett case, the agencies that received about \$70,000 each were the Philadelphia Police Department, the Philadelphia District Attorney's Office, the Burlington County Prosecutor's Office and the Pennsylvania Crime Commission.

Before his arrest in 1987, Bartlett lived well.

He owned a \$400,000 home in Cherry Hill, a private club in North Philadelphia, 12 racehorses, two Mercedes-Benz automobiles, a 100-acre estate in upstate Pennsylvania and two properties in Georgia.

He was known for his expensive taste in clothing, for giving the women in his life furs and jewelry and for dining in pricey restaurants. He also supported 13 children.

It all came to an end when he was accused of running a drug organization known as "The Family." Law enforcement authorities said The Family earned between \$3 million and \$7 million in the Philadelphia area each year between 1981 and 1986.

"We were able to take it out and hit him where it hurt," said Wayne R. Gilbert, special agent in charge of the FBI in Philadelphia.

Bartlett, ultimately sentenced to 35 years in prison for drugs and to life in prison for ordering the slaying of a neighbor in New Jersey, died in January 1990 at the age of 45 in a federal medical facility in Massachusetts.

---- **Index References** ----

News Subject: (Legal (1LE33); Judicial (1JU36); Police (1PO98))

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NewsRoom

PROCEEDINGS
HELD AT THE
JUDICIAL CONFERENCE
OF THE
DISTRICT OF COLUMBIA CIRCUIT

TOPIC

CRIME IN THE STREETS:
MUST IT PRODUCE CONGESTION
IN THE DISTRICT COURTS?

PANEL MEMBERS

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HONORABLE HAROLD H. GREENE
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HONORABLE STANLEY S. HARRIS
District Judge
United States District Court
for the District of Columbia

→ RON KLAIN

HONORABLE JAY B. STEPHENS
United States Attorney
Washington, D.C.

FRIDAY, JUNE 7, 1991
9:15 - 10:45 a.m.

P R O C E E D I N G S

1
2
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CHAIRMAN COHEN: Good morning, ladies and gentlemen. My name is Vincent Cohen, and I am the moderator for a panel entitled "Crime In The Streets: Must It Produce Congestion In The District Courts?"

Much like the airline attendants, if you have another destination, you might want to leave now. But this is the panel on "Crime In The Streets: Must It Produce Congestion In The District Courts?"

We are very fortunate this morning to have a very distinguished panel which I will now proceed to introduce. We have William Barr, the Deputy Attorney General of the United States. Mr. Barr was nominated by President Bush in May 1990 to be Deputy Attorney General. He began serving as Deputy Attorney General at that time pending Senate confirmation, which occurred July 18, 1990.

Prior to his service as Deputy Attorney General, Mr. Barr served in the Department of Justice from April 1989 to May 1990, as Assistant Attorney General for the Office of Legal Counsel, a position known as the Attorney General's lawyer.

Mr. Barr received his B.A. and M.A. degrees in 1971 and 1973, respectively, from Columbia University in New York. He received his J.D. degree with highest honors in 1977 from George Washington University.

Welcome, Mr. Barr.

1 We also are fortunate to have on the panel Harold
2 Greene, District Judge, United States District Court for the
3 District of Columbia.

4 Judge Greene was appointed to the United States
5 District Court in 1978. Judge Greene previously served as
6 Associate Judge of the D.C. Court of General Sessions, which
7 later became the D.C. Superior Court, and as Chief Judge of the
8 Superior Court from 1966 until 1978. Previously, Judge Greene
9 served as Chief of the Appeals and Research Section of the Civil
10 Rights Division of the United States Department of Justice, and
11 as an Assistant United States Attorney.

12 Judge Greene received a B.A. from G.W. University in
13 1949, and a J.D. from George Washington Law School in 1952.

14 Welcome, Judge Greene.

15 We're also fortunate to have Stanley Harris, District
16 Judge, United States District Court for the District of
17 Columbia.

18 Judge Harris was appointed to the United States
19 District Court in 1983, after serving as United States Attorney
20 for the District of Columbia. Previously, Judge Harris served
21 as an Associate Judge of the District of Columbia Court of
22 Appeals, and as Associate Judge on the D.C. Superior Court.
23 Before his first judicial appointment, Judge Harris was a
24 partner in the law firm of Hogan & Hartson.

25 Judge Harris received a B.S. from the University of

1 Virginia in 1951, and an LL.B. from the University of Virginia
2 Law School in 1953.

3 Welcome, Judge Harris.

4 We also have and are fortunate to have Ron Klain, who
5 is Chief Counsel of the Judiciary Committee for the United
6 States Senate.

7 Ron has held this position since July of 1989.

8 Previously, Ron served on the Judiciary Committee staff as a
9 Special Assistant to the Chairman. He has also served as a
10 member of the President's Commission on the Federal Appointments
11 Process, and was appointed to that position by Senate Majority
12 Leader George Mitchell. Immediately before assuming his current
13 post, Ron was a law clerk to the United States Supreme Court
14 Justice Byron R. White for the 1987 and 1988 terms.

15 Ron is a magna cum laude graduate of Harvard Law
16 School, where he received his J.D. in 1987. He was editor of
17 the Harvard Law Review and the winner of the Sears prize. He
18 graduated summa cum laude from Georgetown University with a B.A.
19 in 1983.

20 Welcome, Ron.

21 We also are very, very fortunate to have the United
22 States Attorney for the District of Columbia, Jay Stephens. Jay
23 received his B.A. degree magna cum laude in government from
24 Harvard College, graduating with Phi Beta Kappa honors in 1968.
25 Following college, he was awarded a Frank Knox Memorial

1 Fellowship to New College Oxford, where he studied philosophy,
2 politics, economics. He returned to the Harvard Law School and
3 earned his J.D. degree cum laude in 1973.

4 After law school, he practiced law with the
5 Washington, D.C. law firm of Wilmer, Cutler & Pickering as an
6 associate. In 1974, he was appointed an Assistant Special
7 Prosecutor with the Watergate Special Prosecution Force.
8 Following his Watergate assignment, he served as an Associate
9 General Counsel with the Overseas Private Investment Corporation
10 before being appointed an Assistant United States Attorney in
11 Washington, D.C., in 1977. He served in that position for
12 nearly five years, where he had extensive criminal, jury trial,
13 grand jury, and appellate experience before appointed Special
14 Counsel to the Assistant Attorney General of the Justice
15 Department's Criminal Division in 1981.

16 Subsequently, in 1983, he was appointed Deputy
17 Associate Attorney General, and then Associate Deputy Attorney
18 General of the United States.

19 In April 1986, President Reagan appointed him Deputy
20 Counsel to the President. He served in that capacity until
21 March 1988 when he was named United States Attorney for the
22 District of Columbia.

23 Welcome, Jay.

24 In order to sort of set the focus on the panel's
25 discussion about congestion in the courts resulting from crime

1 in the streets, I just want to provide those who might not be as
2 familiar with the criminal statutes and the workings of the
3 criminal system a little background.

4 In about the mid eighties to the late eighties,
5 Congress passed a series of laws which were designed, it
6 thought, to curb the drug and crime problem which it felt was
7 getting out of hand. One of the pieces of legislation is known
8 as the Antidrug Abuse Act of 1986. This act set mandatory
9 minimums, and let me explain that for a minute just very
10 briefly.

11 If a person, for example, is charged federally with
12 possession of, say, over five grams of crack cocaine with intent
13 to distribute and is convicted, the Judge who sentences him or
14 her then has no discretion, but must impose a mandatory minimum
15 sentence of five years without parole. You will see how that
16 impacts congestion in a moment.

17 By the same token, if it is over 50 grams, that same
18 Judge must impose a sentence of 10 years imprisonment without
19 parole.

20 Congress also passed the Speedy Trial Act of 1988.
21 What this, in essence, says is that from the time a defendant is
22 indicted in federal court, he must or she must be brought to
23 trial within 70 days.

24 Let's, just for a moment, see how this works in the
25 real world. Tony Jones, my hypothetical Tony Jones. Tony Jones

1 is a 19-year-old black kid from Bedford Stuyvesant. Tony Jones
2 doesn't use drugs, doesn't sell drugs. Tony Jones is poor. One
3 day a drug dealer says, "Yo, Tony, yo. I want you to do
4 something for me."

5 And Tony says, "What?"

6 He says, "I'll give you \$300 if you take this package
7 down to Washington, to my cousin in Washington, D.C. I'll give
8 \$150 now, I'll give you a round-trip ticket, and I'll give you
9 the other \$150 when you come back."

10 Well, if you understand poor, black ghetto kids, \$300
11 is a lot of money, and although that kid might know that there's
12 something bad in the package, he still figures he's going to
13 take that shot for the \$300.

14 So, Tony gets on the bus. He's dressed in the uniform
15 of the day, the Nike's, sweat suit, little gym bag. Tony comes
16 to either Union Station by train, if the drug dealer has bought
17 a train ticket, or he comes by bus to the Greyhound Station.

18 What happens then is, policemen, probably in plain
19 clothes, comes up to Tony and says, "Tony," or, "Sir, can I look
20 in your bag?"

21 Now, Tony tries to use his street smarts. He says,
22 "Well, let me play this off. If I tell this guy who's a police
23 officer he can look in my bag, he's probably going to say,
24 'Well, no point, because if he had something in the bag, he
25 wouldn't let me look in it.'"

1 Wrong. The police officer looks in the bag and there
2 are six grams of crack cocaine.

3 Now, Tony doesn't understand mandatory minimums. He
4 doesn't understand the Fourth Amendment. But if he's indicted
5 and brought to Federal Court, two things are going to happen: A
6 trial is going to ensue because any lawyer that he gets to
7 represent him is going to say, "Tony, you face five years.
8 You've got to hope that one of those jurors likes the way you
9 part your hair and maybe won't convict you. You can't plea
10 because it's five years mandatory without parole."

11 So you're going to have a trial.

12 What the madatories have done to some extent, if those
13 cases are brought in Federal Court, has stopped the plea
14 bargaining process because no one is going to plea bargain when
15 there is a mandatory minimum sentence facing them.

16 The District of Columbia is very unique in that it has
17 a United States Attorney who wears two hats. Another factor you
18 have to understand to cope with this problem. The United States
19 Attorney in the District of Columbia has the power to indict
20 either in the State Court, which is our Superior Court, or in
21 the Federal Court. Very unique to other jurisdictions.

22 Now, with that background -- let me say another thing.
23 As a result of the increase in the number of indictments being
24 brought where mandatory minimums and the Speedy Trial Act comes
25 into play, there has been an increase in the number of drug

1 cases and drug trials, obviously. Several District Court Judges
2 feel that it has impacted their civil calendars, to the point
3 that the civil calendar is not even being able to be worked.

4 I would like to start it off now by asking Ron Klain,
5 when the Congress, Ron, was considering this legislation, that
6 is, the Antidrug Abuse Act of 1986 and the Speedy Trial Act of
7 1988, was any consideration given to how this might impact the
8 courts if a number of cases were brought under the mandatory
9 minimum statute because of the inability to put the plea bargain
10 factor into it? Was any consideration given?

11 MR. KLAIN: Well, it's a pleasure to go right after
12 that hypothetical and try to defend the scheme that Congress
13 enacted, reflected by the fact that they sent me as opposed to a
14 member of the Committee perhaps.

15 (Laughter.)

16 MR. KLAIN: But I guess what I would like to say about
17 that in response to Vince's question is this: What we're really
18 talking about is three federal statutes that work together and
19 have the combined effect that some of the Judges have complained
20 of, and some of the civil practitioners, in particular in the
21 District, have complained of.

22 The first actually is the Sentencing Reform Act of
23 1984, which created the Sentencing Commission which created the
24 sentencing guidelines which I think are the first factor at
25 issue here.

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1 The second are the drug and crime laws of 1986 and
2 1988 that Vince talked about earlier with the mandatory
3 minimums.

4 The third, which has more of an impact in other
5 districts, perhaps, than in this one, was Congress's decision,
6 starting in 1987, to really increase the budgets of the federal
7 law enforcement agencies, DEA, FBI, the U.S. Attorneys, and
8 increase the factor inputs, if you will, of the criminal justice
9 system.

10 Then there is a fourth factor here, of course, which
11 is administration policy, and by that I mean both general
12 policies, a general predisposition to bring cases into federal
13 court that could otherwise be tried in state court, and specific
14 policies, like Operation Trigger Lock which is now under way,
15 which has an impact on this.

16 The final factor, of course, is the Speedy Trial Act,
17 which I believe predates 1988 considerably. I don't really
18 think that that's -- although that's obviously a factor in
19 pushing these cases up the docket, as I listen to people talk
20 about what needs to be changed to fix the problem when people
21 think there's a problem, I don't hear a lot of people saying
22 what we should do is get rid of the Speedy Trial Act and make
23 criminal cases move more slowly through the Federal Courts. So
24 let me put the Speedy Trial Act aside.

25 What did Congress have in mind when it was doing all

1 this? Probably a lot of different things, but I think the
2 principal thing that Congress had in mind as it tried to limit
3 Judges' discretion starting in '84 through the sentencing act,
4 through the mandatory minimums, was ensure that when federal
5 criminal cases involving drugs, involving firearms are brought in
6 Federal Court, that the punishments be more severe.

7 But I think that's an important point because really
8 what we're talking about is two consequences of these laws. One
9 consequence is, because the punishments are more severe, there's
10 more of an incentive for Mr. Stephens and his colleagues around
11 the country to bring these cases into Federal Court. It's a
12 particularly strong incentive in this district where, as Vince
13 mentioned, the U.S. Attorney does not have to expend any
14 additional resources to bring a case into Federal Court as
15 opposed to State Court -- or not substantially additional
16 resources -- as he does in other jurisdictions where it's the
17 choice between him prosecuting that case or some other local law
18 enforcement official prosecuting that case.

19 The second factor is, once these cases get into court,
20 defendants are more likely to want trials because of the
21 determinacy of the sentencing, as Vince mentioned.

22 I think Congress understood the second very well. I
23 think Congress understood that as a result of this there would
24 be more requests for trials as it was pursuing this objective of
25 seeing punishments being more stiff.

1 I think less thought, less consideration was given to
2 the first, the idea that there would be a set of incentives that
3 tilted the playing field a little bit and made Federal Court
4 more likely to attract more cases. I think the goal here was
5 that the fundamental balance between the state and the federal
6 system would not necessarily be altered, but that once the cases
7 wound up in Federal Court, the punishments would be more stiff,
8 and perhaps as a result the State judicial systems would follow
9 suit, and would also increase their punishments.

10 We have seen that in some jurisdictions. For example,
11 in the State of Illinois, the punishments are even more stiff
12 than the federal mandatory minimums, and as a result you don't
13 have the factor of tilting the playing field more and more
14 towards the Federal Courts.

15 If other states followed suit with that, you would
16 only have the question of trials, not increased violence in
17 Federal Courts. I don't want to minimize the former, but we
18 need to keep them separate.

19 Let me just finish, if I can, with this one thought
20 about how Congress thinks about this, and perhaps how we should
21 all think about this. The fundamental question, the question
22 that Vince laid down at the outset is, does the war on crime or
23 the effort to clean up the streets, or whatever you want to call
24 it, does it have to mean congestion in the Federal Courts, and I
25 think the answer to that is, yes, probably, but to what extent?

1 And I think, having thought about this quite a bit, the fair way
2 to look at this, the right way to look at this is with the
3 simple question -- with an ambiguous answer but a simple
4 question, which is: Is it worth it? The answer to that, I
5 think, is, yes, if it works.

6 By that I mean, if this series of policies means less
7 crime, less drugs, safer streets, fewer people getting shot,
8 then the policy is worth it, even if that means more delays on
9 the civil side, longer time getting to trial for civil
10 litigants, more expense for consumers, and all the other
11 consequences of civil delays.

12 CHAIRMAN COHEN: Ron, I don't want to interrupt you,
13 but let me just ask you one quick question, and maybe you can do
14 it yes and no. One of the points that you were making is that
15 Congress had hoped that because of these federal stringent
16 penalties, that maybe more states would then adopt them.

17 Well, why hasn't Congress passed a law in D.C.? You
18 know, Congress can legislate for the District of Columbia. Why
19 hasn't it passed a law making the same penalties applicable to
20 the D.C. Superior Court? Do you have a response to that?

21 MR. KLAIN: Well, no, I guess is the yes or no answer
22 to that question, but I think the answer to that is a
23 complicated answer involving an effort to defer somewhat to
24 local judgments and local policies with respect to D.C. I know
25 that's something Congress doesn't do a lot. That's probably a

1 pretty lame explanation here, but the fact of the matter is that
2 I think that Congress has been trying to set a national policy
3 in this area and not necessarily focusing on D.C.

4 CHAIRMAN COHEN: All right. One last question to you,
5 Ron, is, you say that we have to pay the price, this congestion,
6 to make the streets safe. Are you saying that putting Tony
7 Jones, my hypothetical Tony Jones, in jail -- first of all, he
8 doesn't even live here -- in jail for five or 10 years makes the
9 streets safer?

10 MR. KLAIN: No. I guess that's the point I was trying
11 to get to, which is, maybe it does and maybe it doesn't, but I
12 think that that's where the role that the Executive Branch plays
13 in setting up policies that decide which cases come into the
14 federal system is an indispensable element to it, and if Mr.
15 Stephens and Mr. Barr enact policies that result in bringing
16 those cases in Federal Court, the question that those policies
17 should be tested by is whether or not they're serving this
18 objective. That's the question, and I think that's where the
19 Executive Branch comes into this.

20 CHAIRMAN COHEN: Thank you, Ron.

21 Let me turn to the Executive Branch.

22 Bill, Ron mentioned Operation Trigger Lock, and I
23 don't want to get into Operation Trigger Lock or Project Trigger
24 Lock, but only to the point to say that the Attorney General has
25 set down some specific guidelines that United States Attorneys

1 must follow in terms of firearms cases.

2 Now, has the Attorney General set down some specific
3 guidelines that U.S. Attorneys must follow in terms of drugs
4 cases? Specifically, what type of drug case must be brought
5 into the federal system? Is there a parameter? Do you bring
6 the over-five-gram case, or do you look for the kilo case? Has
7 that been done or any thought been given by the Executive Branch
8 at the Attorney General Level?

9 MR. BARR: Well, the short answer to that is that
10 there are no comparable guidelines in the drug area as there are
11 in the Trigger Lock project, but let me back up a moment. I
12 think the sharp increase in the drug caseload is largely an
13 inevitable consequence of the drug crisis nationwide, and the
14 frustration that is felt by District Court Judges in the
15 District of Columbia is understandable, and it is shared at all
16 levels of the criminal justice system as we attempt to mobilize,
17 in an era of scarce resources, our resources to deal with this
18 high priority and at the same time meet our other
19 responsibilities.

20 The phenomenon here is the local permutation of what
21 is going on nationwide. The suppression of drugs and violence
22 is the highest national priority in law enforcement. The
23 American people have reached a broad consensus that it is the
24 number one problem facing the nation. The Federal Government
25 has historically played the leading role in the suppression of

1 narcotics trafficking, and as we gear up for this war on drugs
2 that is underway now, there is no change. The Federal
3 Government is the leader in that effort.

4 Now, in response to the national will, as Ron Klain
5 mentioned, there has been a tremendous infusion of resources
6 into the counter-narcotic effort, and to tangibilize that, from
7 1988 to 1991, in four fiscal years, the Department of Justice's
8 resources dedicated to the drug enforcement effort increased by
9 137 percent. In the last two years alone the number of
10 Assistant U.S. Attorneys dedicated to drug prosecutions
11 increased by 62 percent. These are nationwide statistics.

12 We've increased our F.B.I., D.E.A., and Treasury
13 agents by hundreds. We've set up task forces where we've
14 leveraged our resources by deploying state and local law
15 enforcement officers, and the net result of this is a lot more
16 drug prosecutions and a lot more drug convictions.

17 The OCEDEF Program, which is the main part of the
18 counter-narcotics effort, just to give you an idea of the
19 escalating nature of the drug prosecutions, the OCEDEF Program
20 have prosecuted and convicted as many defendants in the past two
21 years as the whole program had done for the preceding five
22 years. I think that pace is going to continue and, indeed,
23 accelerate.

24 The policy of the Department of Justice, and, as Ron
25 said, it's the Executive Branch's responsibility to devise an

1 enforcement strategy and to set priorities, and it's the
2 responsibility of the Department of Justice and each U.S.
3 Attorney to use the resources and the new tools which Congress
4 has given us to achieve the maximum results possible in each
5 community.

6 Let me just talk a minute about those tools because
7 Congress has passed laws giving us new tools. We have in our
8 hands, at our disposal, a reformed criminal justice system in
9 the federal system. It's the product of 10 years of reform. We
10 have a system that offers tools like pretrial detention and
11 surer sentencing because of the sentencing guidelines. Congress
12 has given us ^{other} new tools, the asset forfeiture and mandatory
13 minimums.

14 Now, using the hypo that you started off with, Vinnie,
15 it's a good example of why Congress passed the law. That drug
16 mule who came down to Washington, D.C. can escape the five-year
17 mandatory minimum if he offers substantial cooperation and turns
18 in the guy who gave him \$300 to carry it down. That's the way
19 you get from the mule to the organization up in New York that's
20 sending the drugs down into Washington, D.C. And that does give
21 the prosecutor a lot of leverage to dismantle the drug
22 organizations.

23 Now, ~~what's our~~ you know, what's our basic policy?
24 Generally, we want the U.S. Attorneys, as I said, to use these
25 new tools and to use all their resources to achieve the maximum

1 result in their community. Our general focus is to target drug
2 organizations and to focus on dismantling and disrupting the
3 activities of those organizations.

4 Our policy is that the strategy in each locality
5 should be -- the strategy should be adapted to the circumstances
6 in each locality.

7 Now, in some areas this may mean prosecuting
8 international cartel kingpins. In others it may be regional
9 drug organizations, motorcycle gangs. And in other localities
10 it could be targeting street level retail organizations.
11 Sometimes federal cases of federal importance could be
12 manifested in the prosecution of a kingpin, but sometimes the --
13 you know, the prosecution of the mule in Charleston, West
14 Virginia helps us attack the organization that's feeding
15 Charleston, up in Columbus, Ohio.

16 So, you know, that's -- that's the nature of the
17 federal law enforcement effort, and given, ~~you know~~ the growth
18 and the magnitude of the resources and of the effort that's
19 underway, it's obvious that courts are going to have to spend
20 more time trying drug cases. The AG spends more time on drugs,
21 the Deputy spends more time on drugs, AAG's spend more time on
22 drugs, the head of the Tax Division spends more time on drugs,
23 correctional officers spend more time dealing with drug
24 prisoners, and the federal courts are not going to be immune
25 from the consequences of this, and I think the Judges understand

1 that.

2 Now, alleviating this, I think, requires three
3 approaches which have been considered as we ~~we~~^{we} ~~go~~^{gone} forward.
4 Congress has given the judiciary more Judges, specifically to
5 deal with drug cases, and we've encouraged that and fought for
6 that, the Administration has.

7 I think another approach will have to be civil justice
8 reform, because we all know that we can save judicial resources
9 on the civil side of the docket, and I don't understand why --
10 why the congestion is automatically blamed on an increasing
11 criminal caseload given the importance and priority that that
12 should have in our society when we know that a lot of judicial
13 resources are frittered away on the civil side, and I think we
14 have to look seriously on how to save those resources. And
15 while a lot of Judges are carping about the criminal side, we
16 don't hear as much public consideration given to means of
17 disciplining the civil side. In fact, Judges seem to be
18 reticent about using Rule 11 or following the Supreme Court's
19 lead in Celotex to discipline that docket.

20 And, third, I think we do have to encourage states to
21 adopt -- to follow the lead of the Federal Government and adopt
22 better criminal justice systems. And, Vinnie, you mentioned
23 that's one of the leadership roles of the Federal Government,
24 and I think that effort is underway. We would like to see the
25 state governments follow the federal lead.

1 CHAIRMAN COHEN: ^{Bill}~~Hon~~, thanks, but let me just -- the
2 Judges can't speak. Let me be the Judge's advocate for just a
3 moment. They're going to speak a little later, but being a
4 civil trial lawyer, I want to inform you that Rule 11 is alive
5 and well, and that we on the civil side are very, very
6 frightened of Rule 11, and we try to make sure that that
7 sanction is not used against us.

8 But what I want to ask you, Bill, is why can't the
9 Attorney General put out some guidelines which says "In the Tony
10 Jones cases, if this mule can't give us cooperation because
11 maybe he doesn't know the person, that case will go to Superior
12 Court"?

13 Or, if this is just a straight-out, you know, over
14 five-gram case, that case will go to the state court?

15 You know, when I was at the Justice Department, and I
16 wasn't on the criminal side, we had manual upon manual. There
17 was the United States Attorney's Manual that ran for three
18 volumes, et cetera. So, guidelines are put out. What I can't
19 understand is, federal resources are important too, and no one
20 wants a case brought in the federal system which wastes
21 everyone's time where the only thing you get is a 19-year-old
22 kid who otherwise is a good kid who goes to prison for five
23 years. I mean, that accomplishes nothing.

24 So, my question to you, Bill, is would you consider or
25 have you considered or could you consider getting some

1 guidelines out so that the U.S. Attorneys will only bring those
2 cases that will bring some -- the best bang for the bucks?

3 MR. BARR: No, because I think that the nature of the
4 drug problem varies nationally, and I think that the U.S.
5 Attorneys have to have the flexibility to deploy their resources
6 in a manner they think --

7 VOICE ONE IN AUDIENCE: We can't hear back here.

8 VOICE TWO IN AUDIENCE: No, we can't.

9 VOICE ONE IN AUDIENCE: Could you have the Deputy
10 Attorney General bring the mike closer to his mouth?

11 MR. BARR: I was saying that I don't think one set of
12 national standards is --

13 VOICE ONE IN AUDIENCE: You have to pick up the mike.

14 MR. BARR: Well --

15 VOICE ONE IN AUDIENCE: It's a matter of guidelines.

16 (Laughter.)

17 MR. BARR: I was saying that I didn't think one set of
18 national guidelines was appropriate because the drug problem
19 varies from region to region, and we believe, based on
20 experience of the federal counter-narcotics effort, that there
21 has to be local flexibility to deploy those resources
22 specifically to get the most bang for the buck.

23 Now, there may be a lot of reasons why we would still
24 want to throw the book at this drug mule even though he could
25 not render substantial cooperation. For one, we do believe in

1 the system of retributive justice, and that's why we support
2 mandatory minimums. It is the expression of the people of the
3 seriousness of the harm that that mule caused, and I don't
4 consider it an unjust sentence to put a courier like that in
5 prison for five years. The punishment fits the crime.
6 Moreover, it may have a deterrent effect which may be important
7 in that region.

8 Take, for example, the case in the Virginia -- at the
9 University of Virginia. I know that the Judge was concerned
10 there about sentencing that student who trafficked in narcotics
11 to 13 months in jail. Why wasn't that handled as a state case?
12 Why was that handled as a federal case?

13 Because part of the federal responsibility is to deter
14 that kind of traffic, and the prosecution of that specific case
15 in that area may have served that function, putting the word out
16 that there is not going to be a distinction between the
17 trafficker in the ghetto and the trafficker on the college
18 campus.

19 So there are a lot of reasons why one set of standards
20 would not be appropriate nationally.

21 CHAIRMAN COHEN: One comment on that. I guarantee
22 you, Bill, that my hypothetical Tony Jones didn't know anything
23 about 4.9 grams versus 5.1, mandatory minimums or the Fourth
24 Amendment, and did not take any message back home.

25 But let me ask you something about legislation. I

1 asked Ron this. Has the Justice Department, especially since
2 the District of Columbia is basically a federal enclave, and
3 you've heard the pleas of congestion from the Judges here
4 considered, and also it's your policy to try to get state or
5 local jurisdictions to follow the federal lead, considered
6 introducing legislation that would make the local laws similar
7 to the federal laws vis a vis mandatory minimums, ex cetera?

8 MR. BARR: I haven't been involved in that, and I'm
9 not aware of any consideration being given to that.

10 CHAIRMAN COHEN: Judge Greene, some statistics have
11 shown that the U.S. Attorney's Office maybe brings 10,000 cases
12 a year, about 9,000 in Superior Court, and 1,000 in the District
13 Court. Other statistics have shown that the civil calendar of
14 the District Court, despite the fact that it is slowing down,
15 still has a tremendous record vis a vis other national courts,
16 that is, seven months from filing to conclusion.

17 Can you enlighten us as to what, if anything, you see
18 as the impact of these new laws and, as Bill Barr has said, the
19 Executive approach to bring cases in your court as a trial
20 judge?

21 JUDGE GREENE: Well, let me go up there so we don't
22 have any problem with the mike, and I hope to enlighten you in
23 the course of what I'm going to say.

24 Both the Deputy Attorney General and Mr. Klain talked
25 about the national picture, quite appropriately. I'm more

1 interested in and I would like to focus on the District Court
2 for the District of Columbia.

3 No more pressing problem exists in the District Court
4 today than the vast increase in drug prosecutions. While the
5 rise in drug crime is, of course, but the root of the problem,
6 what is interesting from the point of view of our topic is the
7 disparity of the threshold for federal prosecutions applied by
8 the United States Attorney in this district than that applied by
9 U.S. Attorneys elsewhere.

10 In the District of Columbia individuals who are found
11 in possession of as little as five grams of crack, less than
12 1/20th of an ounce, are routinely prosecuted in District Court.
13 But it appears that elsewhere, absent special circumstances, far
14 larger quantities are required to bring about federal
15 involvement.

16 I spoke a few days ago with the Chief Judge of the
17 District Court for the Eastern District of New York. It's his
18 understanding the U.S. Attorney in Brooklyn would bring federal
19 charges only if the defendant is in possession of at least 250
20 grams of crack, 50 times as much as in this city.

21 Similarly, the Chief Judge of the District Court in
22 Miami told me last week that unless firearms or other unusual
23 circumstances are present, the U.S. Attorney in his district
24 will not bring an accused into Federal Court unless he's found
25 in possession of at least 5 kilograms of cocaine hydrochloride.

1 Although cocaine hydrochloride is somewhat less
2 concentrated than cocaine base for crack, still hundreds of
3 individuals are prosecuted in our court rather than Superior
4 Court, who in Florida or New York or elsewhere would be
5 defendants in state tribunals.

6 This difference in treatment contradicts the arguments
7 we often hear from prosecutors, that because Congress enacted
8 stiff federal drug laws, there's an obligation to use them to
9 the hilt. Many U.S. Attorneys and courts all over the country
10 obviously do not agree with that premise, that every case should
11 be prosecuted federally that could be so prosecuted.

12 The question that has been asked and is asked all the
13 time, "What difference does it make in which court prosecutions
14 are brought?" The answer is that it makes a difference both to
15 the persons being charged and to the tribunals in which they are
16 charged.

17 As far as defendants are concerned, they are subject
18 in federal court to punishments that are both stringent and
19 almost precisely fixed through a mandatory minimum law or
20 sentencing commission guidelines or both. In that situation, by
21 a selection of the charges, the prosecutor also determines the
22 sentence, for the charge dictates the guidelines levels from
23 which the sentence is mathematically computed, with little, if
24 any, judicial discretion or leeway.

25 The new sentencing laws were touted with considerable

1 fanfare as eliminating disparities in punishments, yet what is
2 it but the grossest kind of disparity when in the District of
3 Columbia many defendants arrested with relatively small
4 quantities of crack, even a junkie feeding his habit, are
5 charged with offenses carrying Draconian punishments while
6 federal prosecutors elsewhere are quite content to leave such
7 defendants to the state courts which typically have wide
8 latitude to impose terms of a few months or even probation. The
9 disparity is still there, only it's bought about by prosecutors
10 rather than judges.

11 Some may quarrel with my reference to mandatory
12 punishments as Draconian. I'm sure some on this panel will. I
13 dare say that every Judge on our court, whatever his overall
14 judicial philosophy, is deeply disturbed when again and again
15 he is forced to impose a sentence of many years, not because by
16 any rational standard the individual deserves such a sentence,
17 but because by the combination of the prosecutor's charge and
18 the sentence set by the Commission for that charge leaves the
19 Judge no choice.

20 Nor should these comments be taken to mean that either
21 my colleagues or I believe that the drug menace should not be
22 fought with utmost determination. We, the Judges, are
23 confronted almost daily with the consequence of such crime on
24 families and strangers alike, and even on small babies, and we
25 have, therefore, been as strict as anyone whenever that made

1 sense.

2 Provided personal perspective, I have sentenced
3 several large-scale dealers to life imprisonment without parole,
4 and similar sentences are being imposed all the time by other
5 members of our court, but I do not believe that it is fair,
6 just, or reasonable automatically to present in federal court
7 the couriers riding the bus from New York for a \$100 or \$200
8 fee, often not even knowing what they're carrying, when upon
9 such presentment they would be subject to a mandatory five or 10
10 years, and they will clog up the Court's docket in addition.

11 What has the effect of all these procedures been on
12 that docket? A couple of statistics will give you the flavor.
13 In a single year, 1989 and 1990, actual criminal trial time in
14 the District Court rose by well over 40 percent.

15 In the first quarter of 1990, 21 percent of the drug
16 cases went to trial, the remainder being disposed of by guilty
17 pleas.

18 By the first quarter of this year, the trial rate
19 almost doubled, to 41 percent. And so we anticipate further
20 increases in criminal trial time.

21 As might be expected, all these developments have had
22 the consequence of requiring the Court to place most other
23 litigation on the back burner. The District Court for the
24 District of Columbia is a federal tribunal, designed to handle
25 federal litigation. In fact, because of its location in the

1 Nation's Capitol, our court, even more than other federal courts
2 elsewhere, has always had a special responsibility to resolve
3 Constitutional and other disputes growing out of the
4 relationship between the Federal Government and the citizenry.

5 Yet, as a consequence of the increase in drug
6 prosecutions and the preference accorded to criminal cases under
7 the Speedy Trial Act, the Court is fast losing its ability to
8 resolve such disputes, or, indeed, to hear the civil cases
9 generally. That, too, doesn't make sense.

10 What's the source of these problems and what can be
11 done about them?

12 To be frank, the problem stems largely from the
13 policies of the United States Attorney and his ability to impose
14 these policies on the entire system because of the circumstance
15 that he has the unfettered ability to bring prosecutions either
16 in federal or in the local courts as he may choose. This, of
17 course, gives him a power that is unmatched anywhere in the
18 United States.

19 What can and should be done about these policies and
20 the effect they're having on the health of the courts in this
21 city?

22 Discussion with the United States Attorney to reach a
23 suitable accommodation would obviously be the preferred course.
24 Such discussion had in the past been the framework in which the
25 Courts, the prosecution, and other criminal justice agencies

1 accommodated their necessarily somewhat different interests and
2 problems.

3 For example, when I was Chief Judge of the Superior
4 Court, I met on a regular basis with Earl Silbert, then the U.S.
5 Attorney, and occasionally also with the Chief of Police and
6 Director of Corrections, to discuss common problems and work
7 them out on a reasonable basis.

8 Unfortunately, discussions with Mr. Stephens to
9 resolve the current congestion problem have not borne fruit.
10 Such discussion has been tried by our court as a whole, by the
11 court's executive committee, and by our distinguished Chief
12 Judge, all without success.

13 If drug offenders could not be tried and punished at
14 all unless the District Court tried and punished them, the U.S.
15 Attorney's refusal to cooperate would certainly be
16 unstandable. But the Superior Court is there ready, willing,
17 and able to try those cases with relatively smaller amounts,
18 just as they are being tried elsewhere in state courts. Such an
19 arrangement along these lines or any other could not be worked
20 out, and we must therefore perforce also contemplate other
21 possibilities.

22 One option that might be considered by the legal and
23 by the broader community is a division of the prosecutorial
24 functions through the creation of a local District Attorney's
25 Office, the DA to be appointed either by the President, as are

1 the judges of the local courts, or by the Mayor. This would
2 separate the federal prosecutorial power from the local one, and
3 thus place Washington in the power system that exists everywhere
4 else in the United States.

5 It would also leave to the local prosecutors and the
6 local courts the handling of drug violators arrested by the
7 local police, and permit the federal authorities to concentrate
8 on truly federal subjects, including large-scale drug
9 operations, conspiracies investigated by the D.E.A. or the
10 F.B.I. in sales of drugs and of interstate aspects.

11 I make this suggestion with considerable reluctance
12 because the Office of the United States Attorney, of which I am
13 a proud alumnus, has widely been regarded as one of the best, if
14 not the best, prosecutorial offices in the nation. This office
15 had such distinguished chiefs as Oliver Gasch, Tom Flannery,
16 Stan Harris, Earl Silbert and Joseph DiGenova, to mention just a
17 few. It has also been staffed, as it is still staffed today,
18 with Assistant United States Attorneys who are outstanding
19 lawyers and dedicated public servants. To divide that office
20 would obviously be a serious step.

21 Maybe Mr. Stephens, who is an intelligent man and an
22 excellent lawyer, will ultimately follow in the footsteps of his
23 predecessors and come to appreciate that he's part of a criminal
24 justice system, and that he should take account of the needs of
25 the other parts of that system.

1 But as of today the federal trial court here is fast
2 reaching a state of crisis. We simply cannot go on indefinitely
3 postponing civil trials, for the litigants in those cases also
4 have rights under the Constitution and laws, whether they are
5 cases involving claims of negligence or breach of contract,
6 allegations of racial, sex, age or disability discrimination,
7 demands for documents under the Freedom of Information Act, or
8 pension and social security claims, not to mention the recent
9 actions involving the Resolution Trust Corporation, Oliver
10 North, the continuing AT&T antitrust litigation, and federal and
11 local corruption matters of various kinds.

12 Others may be content to see the vindication of these
13 rights deferred on an indefinite basis. We, the judges, cannot
14 in good conscience support that.

15 If steps are not taken to resolve the current problem
16 by a reasonable and cooperative approach, then such drastic
17 measures as the division of the prosecutorial function will have
18 to be seriously considered.

19 Another possibility is the abandonment or at least a
20 modification of the court's present policy of routinely
21 postponing civil litigation to the distant future so as to make
22 room on the calendar for drug cases in whatever numbers the
23 prosecutors may choose to bring. I understand that some other
24 federal courts have already curtailed the absolute priority of
25 drug cases or are contemplating doing so.

1 I very much hope, as I'm sure my colleagues hope, that
2 it will not be necessary to take such steps. For each of them
3 it presents difficult problems and choices. But we cannot
4 simply sit here doing nothing about the congestion problem
5 while, as a consequence of the unilateral action of others, a
6 great court system and its ability to render effective and
7 timely service to litigants are in serious jeopardy.

8 CHAIRMAN COHEN: Jay, Judge Greene made an interesting
9 point when he talked about the fact, and let me phrase it a
10 different way --

11 (Laughter.)

12 CHAIRMAN COHEN: It seems to me that part of the whole
13 reason Congress passed these sentencing guidelines and mandatory
14 minimums was to ensure that there was a certain uniformity of
15 sentencing. If, as Judge Greene states -- and, Bill, you may
16 want to speak to this at some point in time -- if, as Judge
17 Greene states, that in certain other jurisdictions there is no
18 uniformity of federal prosecution, isn't that grossly unfair?
19 Whereas, if my Tony Jones had landed in Miami, he's home free.
20 Maybe a suspended sentence in the state court.

21 I would like you to comment on that and anything else,
22 but one other thing I would like you to focus on if you could.
23 Is there any reason why there can't be established in this
24 jurisdiction written guidelines where the Judges and the U.S.
25 Attorney agree that for the biggest bang for the buck is to

1 bring this kind of case here and that kind of case there?

2 Jay.

3 MR. STEPHENS: Thank you, Vinnie.

4 I think it's a wonderful opportunity to debate and
5 discuss a significant issue of public policy in an open forum,
6 but there are significant and institutional issues, significant
7 Constitutional questions, and I also believe significant factual
8 questions.

9 You know, there is an old adage used by the government
10 regarding the defense, that if the facts are against you, you
11 argue the law. If the law is against you, you argue the facts.
12 If they're both against you, you attack the government.

13 My sense is that the facts, as I think I will amply
14 demonstrate, do not support the contention suggested by Judge
15 Greene. The law clearly has been changed. That is the
16 prerogative of the Congress and the Executive, and, in sum,
17 we're left with what we have just heard.

18 Most of you have a copy of some written remarks that I
19 put together regarding the issue that we're addressing here, and
20 that is the impact of crime in the streets in terms of
21 congestion in the court. If you didn't get a copy of that, you
22 can pick up one afterwards. You will be given a little quiz on
23 it. In fact, you will be asked which of the following phrases
24 most closely reflect your views of the issue presented and those
25 phrases following last night's comments are, as follows: It was

1 the best of times, it was the worst of times. As you like it,
2 or much to do about nothing, or it's about 11:00 o'clock. So
3 you can take your pick depending on where you stand on this
4 issue because it may affect what your judgment is on this issue.

5 I also might add that I took some heart in thinking
6 about these issues with what President Jefferson said yesterday.
7 Indeed, I think he focused today's debate rather well. He
8 indicated what the primary and fundamental purpose of what
9 government is, and if you strip it all away, one of the most
10 significant and important functions of government is to protect
11 its citizens from others, to ensure that they have a right to
12 safety and security in their homes, their communities, and their
13 streets. And, indeed, as he would have termed it, the
14 oligarchical judiciary, which is neither elected nor
15 accountable, is not there to set the enforcement policies. They
16 do not have the responsibility for protecting the public. Under
17 our Constitution, the last time I read it, that responsibility
18 fell to the United States Congress and to the Executive Branch,
19 but to devise and decide what enforcement strategy was the most
20 appropriate.

21 As has been referred to many times this morning, there
22 have been substantial concerns about how the criminal justice
23 system is operated and the impact and the failure of that system
24 on the safety and security of the American public. Over the
25 last decade there have been a number of substantial reforms,

1 reforms which the Congress has enacted, reforms which the
2 Executive Branch has fought for very substantially, and those
3 reforms have been referred to this morning. First and
4 fundamental, significant enhancement of penalties, including
5 mandatory penalties, a new sentencing regime under the form of
6 the sentencing guidelines to reflect the seriousness of the
7 impact.

8 In terms of Vince's example, it is the impact on
9 society of crime that is looked to by the criminal law, and also
10 to provide greater certainty of punishment and greater fairness
11 in terms of the punishment imposed within a particular
12 sentencing scheme.

13 In addition, the elimination of parole. It's about
14 time, according to the American public, in their views of what a
15 defendant is sentenced to is what he serves.

16 And, finally, in terms of making bond decisions, that
17 the Courts can take into account dangerousness in setting the
18 conditions of release.

19 Now, I think together those are substantial reforms
20 that add a substantial degree of certainty and fairness to the
21 criminal justice process. Those are all federal reforms. They
22 make the federal forum substantially better and enhance a forum
23 in which to deal with the problems of criminal justice.

24 And, as I mentioned, it is the Executive Branch's
25 responsibility to set the enforcement strategy which it believes

1 best addresses the particular law enforcement needs and problems
2 in its community. It is not to sit down and devise the joint
3 strategy with the judiciary to determine what the law
4 enforcement needs are, how those law enforcement needs can be
5 met, and what resources will be applied and what cases to handle
6 those. That is not my understanding of the Constitution.

7 It is my responsibility as the United States Attorney,
8 consistent with the enforcement policies and strategies of the
9 Executive Branch, in particular the Department of Justice, to
10 implement the laws enacted by the Congress effectively, to
11 maximize their intended impact on criminal offenders who are
12 victimizing our citizens.

13 During the past three years we have increased
14 substantially the number of federal criminal filings to take
15 advantage of a federal enforcement strategy designed to use the
16 statutory reforms I have just indicated and to employ enhanced
17 federal resources which the Department of Justice has fought for
18 and which the Congress has provided through appropriation to
19 bring more drug dealers, more armed offenders, and more white
20 collar thieves to certain justice. That is my responsibility,
21 and that is my obligation. I take that seriously, and I
22 believe -- as far as I'm concerned, we are very proud of the
23 United States Attorney's Office, of the effective job which we
24 have done over the last three years in enhancing the number of
25 prosecutions and holding accountable those who violate our laws.

1 I might add, as Bill Barr indicated, that our strategy
2 at the United States Attorney's Office is not different from
3 what's going on across the country. Fellow prosecutors, my
4 colleagues, my 93 colleagues across this country have brought
5 more and more federal prosecutions, and, indeed, have gotten
6 enhanced federal resources. As Bill pointed out, substantial
7 additional resources appropriated by the Congress for the very
8 purpose of bringing more cases in federal court.

9 The answer then is -- or the question is, how do you
10 deal with the impact which those enhanced prosecutions may have
11 on the courts?

12 Is the answer to bring fewer federal prosecutions, to
13 bring fewer criminals to justice? Indeed, it seems to me that
14 that approach is contrary to the entire thrust of the last
15 decade of criminal justice reform and enhanced penalties.

16 It seems to me what we should do instead is to examine
17 the caseloads of the court to determine whether or not the
18 impact that we're talking about today is real or perceived, and
19 then, if appropriate or necessary, to add additional resources
20 where appropriate to be able to account for that.

21 Now, if you look at what is going on in this district,
22 and the focus of this panel is does crime in the streets
23 necessarily have an impact on congestion in the courts. Well,
24 let's look at what's going on in the District of Columbia
25 District Court.

1 If you analyze available data from the Administrative
2 Office of the Courts, you will find that our enhanced prosecuted
3 effort has not significantly reduced the District Court's
4 ability to manage its caseload. This District Court here in the
5 District of Columbia has one of the lowest civil and criminal
6 caseloads of any federal court in the United States, and even
7 with our enhanced criminal prosecutions the total number of
8 court filings in this district is the lowest it has been in five
9 years by several hundred.

10 Now, if you ask why don't we bring more cases in
11 Superior Court, the simple answer is, for every case we file in
12 District Court, we file 20 cases in Superior Court. Indeed, we
13 created a new unit to handle firearm offenses, all of which
14 probably could be brought in District Court. We anticipate
15 there will be about 700 cases prosecuted in that new unit
16 handling firearms cases. Those 700 cases will be handled by
17 three Superior Court Judges.

18 Now, if you look at a comparison of caseloads of all
19 federal district courts, you will find that the District Court
20 for the District of Columbia has one of the lowest caseloads in
21 the nation. Among the 94 courts our court ranks 88, almost at
22 the bottom, in terms of new filings per judgeship. And if you
23 rank those filings for complexity, that is, the Administrative
24 Office does that in terms of complexity and difficulty, it still
25 ranks 78th out of 93 or 94. And even with this so-called

1 significant increase in federal criminal prosecutions, this
2 district ranks 79th -- 79th out of 94 in terms of the number of
3 criminal felony filings per judgeship. And although criminal
4 filings have increased, as I said, there has been a substantial
5 decrease in civil filings.

6 So despite all the expressed concern about this
7 court's workload, in 1990 the total of civil and criminal
8 filings in this district, as I indicated, was the lowest in five
9 years, and while in recent years the number of criminal filings
10 has increased, the Administrative Office's records show that in
11 1986 the U.S. Attorney's Office file 420 criminal cases. In
12 1990 it shows we filed 534. And while this increase in criminal
13 cases has altered the mix of civil and criminal matters on the
14 court's docket, as I noted, the court's actual total workload
15 and caseload has decreased.

16 Statistical data for 1990 indicates that this court's
17 caseload is among the smallest of all federal courts across the
18 country. In comparison to other district courts in large urban
19 areas, this court has the smallest caseload of any court per
20 Judge. During the year, 254 new cases per judgeship were filed
21 in this district. This number is far below the national average
22 of 437, almost half the national average. When you compare it
23 to the Eastern District of Virginia, right across the river, the
24 criminal caseload -- the criminal caseload of the District Court
25 here, the one you've heard so much about, is less than one-half

1 that of the criminal caseload per Judge in the Eastern District
2 of Virginia. I might add that the civil caseload is even
3 smaller per Judge. It's only about 40 percent of the civil
4 caseload of each Judge in the Eastern District of Virginia.

5 When you cut through all the sound and the fury, you
6 find that felony filings in this district comprise about 13.8
7 percent of each Judge's caseload. In my view that does not
8 constitute a criminal court. This percentage, in fact, is lower
9 than the national average of about 15 percent.

10 Now, if you look at a few other issues raised in terms
11 of the facts of the matter, it is true that Judges are spending
12 substantially greater time in court, but they still -- the
13 actual time in court is very limited. The court's own
14 statistics revealed that the Judges spent about 9500 hours in
15 court in 1990. Criminal cases accounted for about 4500 hours of
16 that, or less than half. So if you divide the in court hours
17 among 15 active Judges, giving them a month off each year, so
18 they work a 48-week year, each Judge spends on average about 13
19 hours a week in Court. About six hours of this is attributable
20 to criminal cases, and, of course, these are average figures
21 because as you know and I know, there are many Judges who have
22 presided over very lengthy trials who have far exceeded these
23 averages, but others have spent far less time in court.

24 I might add that these averages are inflated
25 significantly because they don't take into account the very

1 substantial contributions of senior Judges in this district. We
2 have more senior Judges, and according to the court, they handle
3 about 30 percent of all criminal cases in this district. So,
4 consequently, the in-court time attributable to criminal cases
5 per active Judge is less than five hours a week. And remember,
6 this is the trial court.

7 Now, according to the court's records the number of
8 criminal trials increased, and it has increased. From about 94
9 in 1988 to 171 last year. But if you divide that up, you will
10 find that among the 15 active Judges on an average each Judge
11 handled only 11 criminal trials and only 7 civil trials during
12 the year. I might add again these averages are inflated because
13 of the substantial contribution of senior Judges handling 30
14 percent of the criminal cases.

15 In sum, it seems to me that if -- while the mix of
16 cases has changed and while the court is devoting more time to
17 criminal matters, the record and the facts are clear that the
18 court's docket has fewer felony cases per Judge than almost any
19 district in the United States, and its total workload is among
20 the lightest of any federal court in the country. And I might
21 add civil litigants in this district, compared to all other
22 districts, do not suffer significant delays.

23 Now, I think these facts amply demonstrate that our
24 enforcement strategy, and I will say that is an aggressive
25 enforcement strategy, is designed to meet what we believe is a

1 fundamental problem in the nation's capitol. This is not an
2 ordinary time. We are swept with a wave of violence, narcotics
3 trafficking, and contrary to the implication that Judge Greene
4 indicated, it seems to me this is a federal city, and the
5 federal court in this district has a unique responsibility to
6 help contribute to the solution to add to the safety and
7 security of the people in the nation's capitol who come here,
8 who visit here, who work here, who live here, and that this
9 strategy designed to have the maximum impact on crime in this
10 district has not had an adverse impact and is not responsible
11 for congestion in the court here in the District of Columbia.

12 Thank you.

13 (Inclusion of Mr. Stephens' written statement.)
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U.S. Department of Justice

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REMARKS

OF

JAY B. STEPHENS

UNITED STATES ATTORNEY

FOR THE DISTRICT OF COLUMBIA

AT THE

JUDICIAL CONFERENCE

OF THE

DISTRICT OF COLUMBIA CIRCUIT

CONCERNING

CRIME IN THE STREETS:

MUST IT PRODUCE CONGESTION

IN THE DISTRICT COURTS?

June 7, 1991

The decade of the 1980's witnessed several significant reforms in the federal criminal justice system. Congress and the Executive Branch acted to address the American people's concern about the effectiveness of the criminal justice system in protecting their most fundamental right to be secure in their homes, streets, and communities. Congress enacted a number of significant statutory changes to add greater certainty and fairness to the criminal process. These measures included enhanced and minimum mandatory penalties to reflect the seriousness of the impact of criminal conduct on our society; a new sentencing regime in the form of Sentencing Guidelines to eliminate the disparity in the treatment of offenders by the courts and to provide greater certainty of punishment; elimination of federal parole to assure that the sentence imposed will be the sentence actually served; and a bail statute which permits the courts to take dangerousness as well as the risk of flight into account when setting bond. In making these significant changes, both the Congress and the Executive Branch exercised their constitutional authority to enact statutes embodying policies which they believed addressed the public's interest in a tough, effective system to hold law breakers fully accountable for their crimes.

The Executive Branch has the responsibility to meet the legitimate concerns of the American public about their safety and security. It is the responsibility of the Executive Branch, through the Department of Justice, to determine the most effective means of enforcing the law and to develop law enforcement strategies. It is the responsibility of the United States

Attorney, consistent with those enforcement strategies and priorities, to implement the laws enacted by the Congress as effectively as possible to maximize their intended impact on criminal offenders who are victimizing our citizens. During the past three years, we have increased significantly the number of federal criminal filings as part of a federal enforcement strategy designed to utilize the statutory reforms enacted by Congress and to employ enhanced federal resources in order to bring more drug dealers, armed offenders, and white collar thieves to certain justice.

Federal prosecutors across this country have pursued an enhanced federal prosecutive presence in order more effectively to meet deeply held concerns about the impact of narcotics, violence, and fraud on families, communities, and our institutions. While this enhanced federal criminal enforcement effort has had an impact on the federal district courts around the country, the response should not be to ask prosecutors to bring fewer criminal prosecutions or to ignore effective new federal statutes. Indeed, such an approach would be contrary to the entire thrust of the criminal justice reforms and the enhanced federal law enforcement resources of the past decade. Instead, we should examine how the courts manage their caseloads, determine the nature and extent of the perceived impact, and add judicial resources where appropriate.¹

¹ This past year Congress authorized 74 additional District Court judgeships to address the resource concerns of the courts. None of those new judicial resources were allocated to the District

With regard to our immediate situation in this district, an analysis of available data demonstrates that our enhanced federal prosecutive effort has not significantly reduced the District Court's ability to manage its caseload, particularly its civil caseload. Indeed, the District Court for the District of Columbia has one of the lowest civil and criminal caseloads of any federal district court in the country. Even with our increased criminal filings, the total number of court filings is actually the lowest in five years.

A comparison of the caseloads of all federal district courts reveals that the District Court for the District of Columbia has one of the lowest caseloads in the nation.² Among the 94 federal districts, our court ranks 88th, near the bottom, in new filings per authorized judgeship; it ranks 78th when those filings are weighted for complexity. Even with the significant increase in federal criminal prosecutions, this district ranks 79th out of 94 in the number of criminal felony filings per authorized judgeship. Although criminal filings have increased significantly, there has

of Columbia because current workloads did not support additional judgeships.

² This analysis draws primarily upon statistics compiled and published by the Administrative Office of the U.S. Courts ("Administrative Office") in two reports: the 1990 Annual Report of the Director (including Appendix 1, Detailed Statistical Tables) and the 1990 report on Federal Court Management Statistics. The statistics compiled for each district court by the Administrative Office are based upon the number of active judgeships authorized for the district. In this district, there are 15 such judgeships. The figures from the Administrative Office do not take into account the contributions of senior judges working in this, or any other, district.

been a substantial decrease in civil filings. Despite expressed concerns about the court's workload, in 1990 the total of civil and criminal filings in this district was the lowest in five years. Moreover, compared with other districts, delay in the disposition of civil cases does not constitute a major problem, and to the extent that civil litigants do suffer delays, those delays cannot reasonably be attributed to the increase in criminal filings.

In recent years the number of criminal filings in this district has increased significantly. The Administrative Office's records show that in 1986, the U.S. Attorney's Office filed 420 criminal cases and that in 1990 we filed 534 cases. However, the overall caseloads of District Judges have actually decreased because of an even more substantial decrease in civil filings. In 1990, the total number of civil (3,281) and criminal (534) filings was 3,815, the lowest total for the 5 years from 1986 through 1990.³ From 1985 to 1990, total filings decreased by 17.8%. In 1985, there were 280 civil filings per authorized judgeship. In 1990, there were only 219. Thus, while the increase of criminal prosecutions has altered the mix of civil and criminal matters on the court's docket, the court's caseload has actually declined significantly.

Data for the statistical year 1990 indicate that this Court's caseload is among the smallest in comparison to all other federal

³ By comparison, the totals for the previous four years were: 1986 - 4,295; 1987 - 4,048; 1988 - 3,996; and 1989 - 4,431. The total filings for 1990 were 480 fewer than in 1986 and 616 fewer than the high total in 1989.

district courts. In comparison to other districts encompassing large urban areas, this Court has the smallest caseload per judgeship.⁴ During the year, 254 new cases per authorized judgeship were filed in this district. This number is far below the national average of 437 new filings per authorized judgeship. When compared with the Eastern District of Virginia, just across the river, the criminal caseload of the District Court for the District of Columbia per judge is less than one-half of that court, and its civil caseload per judge is also less than one-half. When the figures are adjusted or "weighted" to account for more difficult and time consuming matters, in statistical year 1990 this District Court still ranked 78th with only 322 weighted filings per judge. This district's total of 322 weighted filings per authorized judgeship consists of 283 weighted civil filings and 39 weighted felony filings. Felonies comprised approximately 13.8% of each judge's caseload.⁵ This percentage is lower than the national average of approximately 14.9%.

This district appears to be disposing of cases in a reasonably

⁴ The districts included in this comparison are the following: Central District of California (Los Angeles); Southern District of Florida (Miami); Northern District of Georgia (Atlanta); Northern District of Illinois (Chicago); District of Maryland (Baltimore); District of Massachusetts (Boston); Eastern District of Michigan (Detroit); Eastern District of Missouri (St. Louis); Eastern District of New York; Southern District of New York; Eastern District of Pennsylvania (Philadelphia); and Eastern District of Virginia.

⁵ In fact, the percentage of felonies each active judge in the District must handle is significantly lower because statistics from the Court show that, in calendar year 1990, 30% of the criminal cases were assigned to senior judges.

timely manner. For civil cases terminated during the statistical year 1990, the median time from filing to disposition was 7 months, 6th best in the nation. For those civil cases actually going to trial during the statistical year 1990, the median time from the filing of an answer to the trial was just 12 months (21st in the nation). The median time from the filing of a felony case until final disposition was 4.5 months (17th in the nation). From 1985 to 1990, the number of weighted filings per judgeship in this district has dropped from 400 to 322. During the same period, however, the number of terminations per judgeship has dropped from 315 to 248, and the median times for disposition of civil and criminal filings have increased 1 month and 1.3 months, respectively. In sum, the Court is now taking more time to dispose of fewer cases.

While this district's median disposition times for civil and criminal cases compare very favorably with most other jurisdictions, a comparison with other judicial districts which have much heavier caseloads suggests that this district could be even more efficient in disposing of cases. For example, the Eastern District of Virginia, which has a far heavier caseload (647 weighted civil and criminal filings per authorized judgeship in statistical year 1990) disposes of felony filings in a median time of 3.6 months and civil filings in a median time of 4 months. The Eastern District of Pennsylvania received 638 weighted filings per authorized judgeship in statistical year 1990 while disposing of civil and criminal cases in a median time of 7 and 6.1 months,

respectively. During the same period, the Central District of California disposed of civil and criminal cases in median times of 7 and 5.1 months, respectively, although it received 487 weighted filings per authorized judgeship. The Northern District of Illinois, which received 488 weighted filings per authorized judgeship, disposed of civil cases in a median time of 5 months and criminal cases in a median time of 6.4 months.

While the judges are spending more time in court, actual court time is still very limited. The Court's statistics reveal that judges spent 9,486 hours in court in 1990. Criminal cases accounted for 4,502 hours, or less than half. When in-court hours are divided among the 15 active judges working a 48-week year, each judge spends an average of 13 hours in court a week. Of this time, 6 hours per week is attributable to criminal cases. Of course, these are average figures, and judges who presided over lengthy trials have far exceeded these averages, while others have spent far less time in court. Moreover, these averages are inflated because they do not take into account the substantial contributions of senior judges, and this district has a greater number of senior judges than many other districts. Consequently, the average in-court time attributable to criminal cases per active judge is less than 5 hours a week.

According to the Court's records, the number of criminal trials increased from 94 in calendar year 1988 to 171 in 1990. In addition, there were 108 civil trials in 1990. While there has been a significant increase in the number of trials, if the total

is divided among the 15 active judges, on average each active judge handled only 11 criminal trials and only 7 civil trials during the year. Again, these averages are inflated because they do not take into account the considerable efforts of the senior judges, who are assigned 30% of the criminal cases.

In sum, although the mix of cases has changed and the District Court is devoting more time to criminal matters, the Court's docket has fewer felony cases per judge than almost any other district in the United States. Its total workload is among the lightest of any federal court in the country, and civil litigants in this district do not suffer significant delays. As these facts demonstrate, an aggressive federal law enforcement strategy implementing the laws enacted by Congress is not, at least in this district, responsible for any real congestion in the court.

1 CHAIRMAN COHEN: Thank you, Jay.

2 If I was taking a deposition or on trial, I might say
3 I move to strike as not responsive because I didn't get an
4 answer. Trying to search a solution, it really means that
5 people have to sort of focus on the question.

6 One question I asked which I didn't get an answer to
7 was, if the Executive Branch's policy is about uniformity of
8 sentencing, shouldn't it also be about uniformity of
9 prosecution? Tony Jones is a real person and he would have gone
10 to Miami rather than D.C. had he known.

11 I also didn't get an answer to the question about
12 written guidelines. When we search for a solution, it seems to
13 me everybody can meet each other halfway or at least explain why
14 written guidelines would or would not work.

15 But, in any event, Judge Harris, perhaps you might
16 want to comment, and you might want to focus, if you could,
17 about civil cases and how Judges spend a lot of off-bench time
18 reflecting on issues that really require some reflection, and
19 that every now and then, for some intellectual stimulation,
20 Judges might want to write a decision to help guide lawyers in
21 the future. You might want to talk about that in terms of the
22 statistical issues. You might also want to talk about the
23 necessity in civil cases of case management, because Rule 1
24 requires speedy, inexpensive determination of litigants' rights,
25 and a civil litigant is entitled to due process and justice as

1 much as a criminal litigant.

2 So, you might want to focus on the civil side because
3 I detect a misunderstanding of what occurs in a courtroom and a
4 courthouse in terms of the civil side of the calendar.

5 JUDGE HARRIS: Thank you, Vinnie. I'm glad I didn't
6 prepare any comments because I couldn't have tailored them to
7 what you said and what Jay said and what Harold said in the
8 first place.

9 It's nice to hear Jay say we don't really have a
10 problem. That's beautiful. If we don't have a problem, I don't
11 really know why we're here. I think the reason that we're here
12 is that there is indeed a very serious problem.

13 I don't particularly like being here. I yield to no
14 one in my respect or affection for the United States Attorney's
15 Office. I also am a firm believer in the separation of powers.
16 It's up to the United States Attorney's Office to decide whom to
17 prosecute and for what. It's not up to us to tell them what to
18 do. But we're all, in effect, in the safe lifeboat together.

19 I don't know if anyone else shares my great affection
20 for Al Capp, the brilliant cartoonist years ago. He had one
21 little doll that I forget what he called it, the "push me, pull
22 me, kick me doll," and that's kind of really how we perceive
23 ourselves at this point.

24 We're pushed on one hand by Congress through the acts
25 which it has legislated, and one thing that makes it difficult

1 for those of you who don't work on a day to day basis in the
2 criminal justice area is to understand what we're talking about
3 here because there are so many varying concepts that lead us to
4 where we are in our dealings with the criminal justice system
5 today.

6 One, for example, the sentencing guidelines. Through
7 the Sentencing Reform Act of 1984 Congress created a sentencing
8 commission, and its objective is to remove disparity from
9 sentencing. There's no question but that there was some
10 disparity in sentencing.

11 There's also no question but there's some disparity in
12 sentencing today, and whether it's worth it to have the
13 guidelines or not can be debated, but that's not really the
14 issue that's before us. The sentencing guidelines are here.
15 They do affect the sentences that we impose. They do affect the
16 quantity and the percentage of guilty pleas that we receive in
17 our court wherein the people are charged particularly with drug
18 offenses.

19 Another concept of the mandatory minimum sentences
20 which Congress has superimposed on top of the Sentencing Reform
21 Act and those mandatory minimum statutes, in effect, further
22 drive the sentencing guidelines, meaning that the sentencing
23 guidelines are moved upward in the drug area.

24 We can say we don't like the mandatory minimums. I
25 think Congress, in due course, will take a close look at them.

1 It's very rare, as you all know, for the judiciary to take any
2 kind of a role with respect to legislation. It's not our job.

3 I serve as this circuit's representative on the
4 Criminal Law and the Probation Administration Committee of the
5 Judicial Conference of the United States which has to be about
6 the longest committee name that I know of. My committee has
7 come out, in effect, against mandatory minimum sentences. The
8 Judicial Conference of the United States, in response to a
9 submission by our committee, has come out against the mandatory
10 minimum sentences, and gradually, circuit by circuit, the
11 question has been taken up, and as of now you have the Second,
12 the Third, the Fourth, the Eighth, the Ninth, the Tenth, the
13 Eleventh, and the District of Columbia Circuits, all of which by
14 some type of resolution, have come out in opposition to
15 mandatory minimums.

16 The mandatory minimums are a part of the problem we're
17 dealing with, and the extent to which they affect guilty pleas
18 and the extent to which they affect charging on devices followed
19 by the United States Attorney's Office.

20 I would feel perfectly contented if Jay, whom I've
21 known for years and known favorably, were to come up here before
22 us say, "We view drugs as the paramount problem facing society,
23 and we view it as our role to see to it that anybody who
24 operates in the drug chain should be charged as high as we can
25 charge them and should get as much time as we can get them, and

1 if the rest of the system suffers because of that, then so be
2 it. That's a decision we feel obliged to make."

3 I haven't had a chance to look at his written
4 submission, but I have looked at a couple of sentences. One
5 says, "Moreover, compared with other districts, delay in the
6 disposition of civil cases does not constitute a major problem,
7 and to the extent that civil litigants do suffer delays, those
8 delays cannot reasonably be attributed to the increase in
9 criminal filings."

10 Another place it says, referring to our court, "It's
11 total workload is among the lightest of any federal court in the
12 country, and civil litigants in this district do not suffer
13 significant delays. As these facts demonstrate, an aggressive
14 federal law enforcement strategy implementing the laws enacted
15 by Congress is not, at least in this district, responsible for
16 any real congestion in the court."

17 All I could think of when I looked at that and when I
18 heard of it was the wonderful movie "ET" and watching those kids
19 on their bicycles just sort of take off when they ran into a
20 problem and off they go. I wish we could do that. I do not
21 understand how it can be said that we are not facing a crisis in
22 the handling of the civil cases in our court.

23 The last civil case which I tried was in the first
24 week of September. I have not been able to try one since. Many
25 have been set. They have all had to be postponed because of

1 having to superimpose criminal cases on top of them.

2 If you take a snapshot of our court at any given
3 moment in time, we have a little over 3,000 civil cases pending
4 in our court, and we have about 170 criminal cases. Well, you
5 say, "Hey, great civil court. No problem. How can that small
6 number of criminal cases drive our docket?"

7 They drive our docket because of the Speedy Trial Act,
8 because of the mandatory minimums, because of the sentencing
9 guidelines, and because of the charging policies of the U.S.
10 Attorney's Office.

11 If you take Vinnie's Tony Jones, if Tony Jones had
12 been picked up in Penn Station in New York with the crack that
13 he was going to bring down here to Washington, he would have
14 gone into the Manhattan D.A.'s office. He would have gotten
15 credit for time served by the time this case was processed, and
16 he probably would have served about 30 days. He made it to
17 Washington, so he's interdicted here, and he's looking at five
18 years.

19 Now, we're not here really to debate the impact on the
20 Bureau of Prisons of putting your Tony Jones in for five years.
21 Lots of you have quarters in your pocket. If you have crack
22 that weighs that much, that's roughly five grams of crack. That
23 will get you five years. If you have two ounces -- if you went
24 to somebody's house for dinner and they offered you two ounces
25 of steak, you'd think it was the cheapest friend you ever paid a

1 visit to, but two ounces of crack will get you 10 years.

2 Now, we're loading up our prisons, and I couldn't tell
3 you what percentage of the cases result in sentences which most
4 people would consider to be manifestly unjust, whether it's 15
5 percent, and I pull that figure out of the air, but those people
6 are going to be coming back out on the streets in time with no
7 more job skills than they had when they went in. So we're
8 creating a monster that's going to continue to live with us down
9 the line.

10 I don't view this problem as a Superior Court versus
11 District Court problem. I feel very strongly that the District
12 of Columbia has no local Judges. Every Judge in the District of
13 Columbia is a federal Judge. Those in Superior Court and on the
14 D.C. Court of Appeals are federal Judges under Article 1 of the
15 Constitution. We now, and there are five of us who have been on
16 Superior Court, those in the District Court are federal Judges
17 under Article 3 of the Constitution.

18 We're all aimed at the same objective. We are getting
19 crushed by an inability to handle our civil caseload. We are at
20 the breaking point in handling criminal cases.

21 We can take it. There have been suggestions that
22 we're doing a lot of complaining and whatnot. I think our court
23 has been remarkably uncomplaining. We feel that we're paid to
24 try the cases that come to us. But to fail to recognize that
25 virtually all of our time is being consumed by drug cases, the

1 great majority of which are not major in the national
2 measurement scheme of things, is not to be realistic. We do our
3 best. We don't complain.

4 It's going to get worse. We are going to have more
5 indictments if we continue the same policy of having these
6 five-gram cases -- and we've had lots of cases in which we are
7 trying defendants who were involved in the sale of the \$25 rock
8 of crack cocaine. So there goes two, three, four days on that
9 trial.

10 Now, granted in those cases they've come to us for a
11 reason other than the \$25 rock of crack. They come to us
12 because a particular defendant has two or more prior felony
13 convictions and he's subjected to a more significant period of
14 time in jail. I don't think there is a Judge on our court who
15 isn't perfectly happy to send away for a significant period of
16 time someone who is making a significant contribution to the
17 very, very bad drug problem that we're faced with in the
18 District of Columbia.

19 Anybody who hasn't dealt with crack and crack
20 addiction simply can't understand how destructive it is to the
21 human being involved and to the community. Crack is the pits.
22 Those of us who have had people that were facing sentencing
23 who have tried to get them off of crack, we have a rotten record
24 of achieving that. We don't get them off. It's a real problem.
25 But, at what cost do they -- virtually all of the resources of

1 the District Court go in to dealing with these cases. I submit
2 that the cost is too high at the present time.

3 Now, the Department of Justice quite properly places
4 limits on the -- some limits on the plea bargaining capabilities
5 of the U.S. Attorney's Office, and there are reasons for that
6 which are related to the sentencing guidelines. If you had
7 individual prosecutors who had unlimited discretion, and
8 individual prosecutors in the District of Columbia have very
9 little discretion as I understand it, but if you had some
10 prosecutors in some parts of the country who could plea bargain
11 away virtually everything so that the guidelines, in effect,
12 didn't really exist as far as that prosecutor is concerned. You
13 have a serious problem.

14 So, on March 13th of 1989, the Attorney General sent a
15 memorandum to federal prosecutors which pointed that out and
16 said, "Don't plea bargain away the guidelines."

17 But, obviously, there has to be some sort of an out,
18 and at one point in that memorandum the Attorney General said,
19 "For example, approval to drop charges in a particular case
20 might be given because the United States Attorney's Office is
21 particularly overburdened. The case would be time consuming to
22 try, and proceeding to trial would significantly reduce the
23 total number of cases disposed of by the office."

24 Fine. So the Attorney General was telling
25 prosecutors, "If you guys are in trouble, plea bargain to get

1 your way out of it."

2 No such break for us. Slam it to us.

3 I don't know where Jay gets his statistics.

4 Historically, our court has had the most heavily weighted civil
5 caseload in the country from the standpoint of complexity. We
6 get cross motions for summary judgment in civil cases that are
7 that thick (indicating). We have a very high caseload when it
8 comes to preliminary injunctions in major government cases,
9 significant issues that need to be dealt with promptly, and if
10 we sit there seven, eight weeks in back-to-back trials, we don't
11 get to those things.

12 I think the civil bar has been wonderfully
13 accommodating. I don't understand why the civil bar hasn't
14 raised more hell than it has. But you're getting the inevitable
15 consequences of it. Now that the Superior Court has gone from
16 an individual calendaring system, cases which would have been
17 brought with an effort to avoid Superior Court are now going
18 back there because they can't get them tried.

19 Cases that would have been brought, civil cases that
20 would have been brought in the District of Columbia in an effort
21 to get out juries now are being brought in Maryland and Virginia
22 because the cases can be tried there. They cannot be tried
23 here.

24 I think that the United States Attorney's Office has
25 an obligation to the entire spectrum of cases which it handles

1 and an obligation to the entire broad obligations of our court
2 system. The United States Attorney's Office, after all, is the
3 largest single litigant in our court, and they are not getting
4 their civil cases resolved as we would like to have them.

5 These are serious problems, and I am very concerned
6 that we aren't really looking at the same -- we're not on the
7 same page here. As I started to say at the start, I would love
8 to hear it said, "Okay, we're killing you with these cases, but
9 that's what we think needs to be done, and don't say anything
10 about it. Just do your job."

11 That's what we're doing. We're doing our job. We are
12 not getting the civil cases. There are reasons for it, and
13 that's roughly an outline of the reasons.

14 CHAIRMAN COHEN: Thank you, Judge Harris.

15 We have a few more minutes, and I would like to throw
16 it open for questions to the panel. If you would ask your
17 question from the microphone and also identify yourself for the
18 record, it would be appreciated. Are there any questions?

19 MR. PAUL FRIEDMAN: I'm Paul Friedman. Among other
20 things, I have what appears to be the even more dubious
21 distinction of sharing the Court's Civil Justice Reform Act
22 Advisory Committee.

23 If Jay is correct in everything he says, we don't have
24 any work to do at all because there is no problem. If Judge
25 Greene is correct in everything he says, I've got to spend the

1 next three years doing nothing but this committee's work.

2 What we have tried to do, and this is another burden
3 that the legislative branch has put on besides everything else
4 that has been discussed this morning, and that is trying to
5 reduce delay and reduce cost in civil litigation at the same
6 time that it has committed the Executive and the courts to deal
7 with these other statutes that have been mentioned this morning.

8 What we have tried to do in the first three months of
9 our existence as a committee appointed by the court is to rely
10 neither on anecdotal evidence and the stories that each of us on
11 the committee have about problems that we've had on behalf of
12 our clients and the courts, problems of delay or problems of
13 excessive cost, nor to rely strictly on bare statistics because
14 statistics don't tell the whole story either. If they did, it
15 would be impossible for both Jay and Judge Greene to be correct
16 in what they're saying. I don't doubt that Jay's statistics are
17 accurate so far as they go or he wouldn't be citing them to us.

18 But for one person on this panel to be saying the
19 court is unable to try civil cases, virtually all of the
20 resources of the court go to criminal cases and the court must
21 indefinitely postpone civil trials, while another person is
22 saying that civil litigants suffer no significant delays,
23 there's just something wrong there.

24 And what we hope to do as a committee, unless the
25 problem is solved before we get started, is to look beyond the

1 statistics and to look at individual case files and to look and
2 see how many of those cases have piles of motions this high as
3 Judge Harris has suggested, and to look at cases by categories
4 of cases. There are some very complex civil cases in this
5 court. And to talk to the individual Judges if we can, and to
6 find out the magnitude of the problems, and to look at
7 statistics perhaps by Judge, by category, by type of case, and
8 see the picture beneath the statistics and behind the statistics
9 because there are some problems in this court. It has a very
10 good record of disposing of civil litigation, better than many,
11 many courts, maybe most courts in the country. But will that
12 record continue in view of what's going on now on the criminal
13 side?

14 Those are the questions that we need to look at, and I
15 hope that we will get and I know that we will get the
16 cooperation of the courts as we are already getting the
17 cooperation of the U.S. Attorney whose representative sits on
18 the committee, as well as the bar at large.

19 There is a problem here, and what we're going to try
20 to do and what this panel has only underscored for me at least
21 is the need to look deeply into the problem if we're going to
22 try to do anything about delay.

23 I'm sorry that's not a question, Vinnie.

24 CHAIRMAN COHEN: Thank you, Paul.

25 Any other questions, comments, observations?

1 MR. PHILIP INGLIMA: My name is Phil Inglima and I'm
2 used to dealing more on the Tony Jones level, so that's where
3 the question comes from and maybe anyone could address this.

4 The point was made that under the sentencing
5 guidelines, and it's also true under Rule 35, that the
6 opportunity for an out that might help lead to more plea
7 bargaining really comes at the level of substantial assistance
8 or cooperation to the government. But what Mr. Cohen responded
9 with didn't really draw any attention, and that's that often the
10 Tony Jones either goes back and doesn't know the person that
11 gave him the drugs, or that person might already be under
12 separate prosecution, or it may be that the executive who is
13 reviewing the decision whether or not to give that offer of
14 assistance any credit simply isn't interested in it for any
15 number of policy reasons.

16 My question is from the standpoint of why is that
17 unreviewable discretion? Is any consideration being given to
18 changing Rule 35 or the guidelines in such a way that the court
19 could have a role in deciding whether or not there is a proper
20 exercise of discretion of when a defendant gets any credit for
21 either the offer of assistance or the actual assistance that he
22 gives.

23 CHAIRMAN COHEN: Jay?

24 MR. STEPHENS: I'll try to respond to that in about a
25 minute because you have posed a very complex, institutional,

1 Constitutional question. But the fundamental question is who
2 should have the right to determine whether or not a defendant
3 offers substantial assistance to the government and thereby get
4 some or be permitted to have some reduction in a sentence
5 otherwise set by Congress.

6 The fundamental premise is that the Tony Jones of the
7 world -- and I must say I disagree with most of Vince's
8 predicates about Tony Jones -- but a Tony Jones coming from New
9 York to Washington, all other things being equal, gets five
10 years. That's what the law is; that's what Congress has said;
11 that's what the American people have demanded. In fact, if you
12 look at the statistics, the biggest criticism the American
13 people is of the courts, that they don't sentence severely
14 enough. The sentence is set by the Congress. Our job is to
15 enforce that.

16 The question is, is there any basis for Tony Jones to
17 get less than that mandated by the law, and who is the best
18 situated institutionally to determine whether or not that
19 individual provides substantial assistance to law enforcement?
20 It seems to me the Executive is because that is uniquely in the
21 province of the Executive to make that kind of determination,
22 that is, the Constitutional responsibility to enforce the law,
23 and if the executive makes a determination that the individual
24 has provided substantial assistance, then it becomes a matter
25 for the court to determine at what level that sentence should be

1 set based on that determination. If a determination is made
2 that he has not, cannot, will not provide substantial
3 assistance, then the law is he serves five years.

4 I don't have any problem with that. That's the law.
5 I think the American public have expressed themselves very
6 clearly, and while the court may very well be suggesting that it
7 would like to substitute its judgment about what an appropriate
8 penalty is in a particular case, that's not my understanding of
9 the Constitutional system either. It's not my understanding of
10 the role of Congress, and it seems to me that the Tony Jones of
11 the world serve their time in that context.

12 CHAIRMAN COHEN: Thank you, Jay, and I want to take
13 this opportunity to thank you again, Jay, for appearing.

14 Ron, thank you. Judge Harris, Bill, and Judge Green.
15 Thank you so much. We have had a lot of heat, a little light,
16 and I appreciate it.

17 We now adjourn until 11:00 a.m.

18 (The proceedings in the above matter were recessed at 10:45
19 a.m.)

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Section: METRO

US DISBURSES NEARLY \$1M SEIZED IN DRUG CASES TO NEW ENGLAND

Sean P. Murphy, GLOBE STAFF

Citing the drug asset forfeiture program in New England as one of the best in the country, a top US Justice Department official yesterday turned over almost \$1 million in seized funds to local officials for use in financing new drug investigations.

William P. Barr, the second-ranking official to Attorney General Dick Thornburgh, said the forfeiture of assets used in drug dealing or purchased from drug dealing profits is "poetic justice."

"It takes the ill-gotten gains of drug dealers and reinvests them into law enforcement," said Barr. "It is one of our highest priorities."

The \$947,000 handed out yesterday to the chiefs of 25 local police departments and to Suffolk District Attorney Newman A. Flanagan represented the local share of cash, real estate and other drug assets seized recently by authorities.

Under the forfeiture law, the seized assets are returned to the police departments that participated in the original investigation that produced the seizures. The federal government takes a 15 percent cut of the funds.

The \$947,000 distribution yesterday was the largest made by the office of US Attorney Wayne A. Budd. Last year, the office of his predecessor distributed \$2.2 million.

Barr said that on a per capita basis, US Drug Enforcement Administration agents in Boston are the most productive in the country in using the forfeiture program. Overall, New England ranks fourth in the country in forfeitures.

Local law enforcement agencies strapped for funds by state budget constraints are restricted by law in the use of the forfeiture money. They may use it only to purchase equipment related to drug investigations.

Justice Department officials are looking into whether the regulations of the use should be loosened.

The following amounts were distributed: Massachusetts State Police, \$351,233; Freetown Police, \$184,182; Quincy Police, \$89,168; Suffolk County district attorney's office, \$68,875; Norwood Police, \$56,136; Metropolitan District Police, \$54,468; Newburyport Police, \$34,620; Westfield Police, \$11,048; Watertown Police, \$10,120; Burlington, Vt., Police, \$9,518; Hartford, Vt., Police, \$9,518; Barre, Vt., Police, \$9,518; Rutland, Vt., Police, \$9,518; Vermont State

Police, \$9,418; Stowe, Vt., Police, \$9,418.00; Rowley Police, \$7,922; Virginia Beach, Va., Police (which participated in a joint investigation), \$6,792; Hudson, N.H., Police; \$4,532; Brookline Police, \$3,692; Lowell Police, \$3,021; Wilmington Police, \$1,510; Leominster Police, \$1,282; Boston Police, \$1,227; Colchester, Vt., Police, \$100; Newport, Vt., Police, \$100; and South Burlington, Vt., Police, \$100.

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---- **Index References** ----

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NewsRoom

PANEL I: SHOULD THE BILL OF RIGHTS FULLY PROTECT FUNDAMENTAL FREEDOMS?

THREE LEVELS OF HUMAN DECISIONMAKING AND THE PROTECTION OF FUNDAMENTAL RIGHTS

WILLIAM P. BARR*

Should the Bill of Rights fully protect fundamental freedoms? This question is not tightly focused. It is like asking, "Should courts do justice?" One is tempted to respond "yes" and go home. By delving deeper into this question, however, one encounters a number of difficult questions of political philosophy. The panelists have approached this broad topic from a number of different angles. Because their discussion is far-ranging, it will be useful to describe a framework which, though quite rudimentary, may provide direction and focus.

Let me suggest three spheres or levels of decisionmaking that affect the way people lead their lives. First, there is the private sphere: the realm of individual choice, private contract, and personal liberty. The decisionmaker is the individual. "I am going to live in this neighborhood." "I am going to marry this person." "I am going to educate my children in this way." "I am going to buy that hat." This private sphere represents the most basic level of human decisionmaking.

For self-interested individuals to live together peacefully and to pursue their private happiness meaningfully, there must be a second level of decisionmaking—the level of collective decisionmaking by civil government. The Declaration of Independence and the Preamble to the Constitution both remind us that it is precisely the need to protect individual liberty that justifies the existence of civil government.¹ At this government-

* Attorney General of the United States. At the time of the Symposium, Mr. Barr was serving as Deputy Attorney General of the United States.

1. See U.S. CONST. pmbl. ("We the People of the United States, in Order to . . . secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."); THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776) ("We hold these truths to be self-evident, that all men . . .

tal or political level, the rules applicable to private choices at level one are made and enforced.

At this second level, governments may operate along two interrelated axes. The first axis represents the degree of community participation in decisionmaking. This axis ranges from absolute monarchy to direct democracy. The second axis represents the degree to which the government, in whatever form, is authorized to restrict, supplant, or reverse private choice. On this axis, the potential intrusiveness of government can vary between extremes. It can be a limited, laissez-faire, libertarian government designed to protect the broadest range of private choice and individual liberty. Alternatively, it can be an all-encompassing, Orwellian state that controls virtually every aspect of life and leaves little room for private choice. Most political theorists would agree that there is a relationship between these two axes.² The more a community participates in governmental decisionmaking, the greater the authority with which that government can be trusted. The greater the community involvement, the lesser the likelihood that government will unduly intrude in the private sphere. The converse is also true.

In addition to the private and political spheres, there is a third level of decisionmaking. This third level, the constitutional level, is the level at which constitutional rules are framed—rules that are binding on, and enforceable against, the government itself. Constitutional rules directly or indirectly control the extent to which the political sphere is permitted to intervene in the private sphere. Constitutional rules made at this third level indirectly control the reach of government by setting guidelines of structure or procedure.³ Constitutional rules can also directly control the range of government action.⁴

are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed").

2. See, e.g., ALEXIS DE TOCQUEVILLE, *DEMOCRACY IN AMERICA* 181 (Henry Reeve trans., 1961) (1838); JOHN H. ELY, *DEMOCRACY AND DISTRUST: A THEORY OF JUDICIAL REVIEW* 73-104 (1980).

3. See *Morrison v. Olson*, 487 U.S. 654, 697-98, 727 (1988) (Scalia, J., dissenting); *Bowsher v. Synar*, 478 U.S. 714, 721-22 (1986); *INS v. Chada*, 462 U.S. 919, 963 n.4 (1983) (Powell, J., concurring).

4. See Rodney A. Smolla, *Preserving the Bill of Rights in the Modern Administrative-Industrial State*, 31 WM. & MARY L. REV. 321 (1990). "The Constitution, a negative document drafted in the language of restraint against officials, protects individual liberty by limiting government action." *Id.* at 336.

Substantive rules can secure private rights by restraining the government from acting in certain ways. For example, the government cannot abridge freedom of speech.⁵ Freedom of speech is a restraint, a constitutional rule that binds the government and prohibits it from acting and intervening in the private sphere. Theoretically, constitutional rules can also create another kind of private right or entitlement by affirmatively requiring the government to take action.⁶ For example, a constitution could proclaim, "Every citizen is hereby guaranteed an education." Such a declaration is a rule at the constitutional level that compels the government to intervene in the private sphere in some way.

Now let us turn to our Constitution. The proposed Constitution that emerged from the Philadelphia Convention of 1787 did not contain a Bill of Rights.⁷ The Federalists generally believed that, as far as the federal government was concerned, a Bill of Rights, a set of constitutional rules protecting rights by restraining the government, was unnecessary.⁸ Of course, the Federalists wanted to protect private liberty, but they sought to achieve this result through structural rules—not by direct restraints on government actions.⁹ Thus, they attempted to structure the political decisionmaking process at the second level in a way that reduced the threat of undue intrusion into the first level. By creating a sound representative system of government with limited enumerated powers, with separation of powers, and with an independent judiciary, the Framers sought to limit the threat that the federal government posed to individual liberties.¹⁰ Many Federalists saw a written Bill of Rights as a mere parchment barrier. They argued, as Publius asserted in *The Federalist Number 84*, that "the Constitution is itself, in every rational sense, and to every useful purpose, A BILL OF RIGHTS."¹¹ In their view, the Constitution secured rights because it was derived from the people themselves, it provided

5. See U.S. CONST. amend. I ("Congress shall make no law . . . abridging the freedom of speech . . .").

6. See Frank Michelman, *Law's Republic*, 97 YALE L.J. 1493 (1988); Cass R. Sunstein, *Beyond the Republican Revival*, 97 YALE L.J. 1539 (1988).

7. See CLINTON ROSSITER, 1787: THE GRAND CONVENTION 226-27 (Norton 1987).

8. See THE FEDERALIST No. 84, at 513 (Alexander Hamilton) (Clinton Rossiter ed., 1961).

9. See THE FEDERALIST No. 47, at 301 (James Madison) (Clinton Rossiter ed., 1961).

10. See *id.*; see also THE FEDERALIST No. 49, at 316 (James Madison), No. 78, at 469-71 (Alexander Hamilton) (Clinton Rossiter ed., 1961).

11. THE FEDERALIST No. 84, *supra* note 8, at 515.

for a sound system of representative government, and it granted limited powers to a balanced and mixed government.¹²

Thus, the Constitution that emerged from the Philadelphia Convention contained few direct restraints on the reach of government. So long as the federal government acted pursuant to one of its enumerated powers, there were few formal barriers to its intrusion into the private sphere. A consensus quickly emerged that structural safeguards were not enough.¹³ Indirect controls on the reach of the federal government could not protect individual freedoms by themselves. The Bill of Rights, the first ten amendments adopted in 1791, represents a set of constitutional rules agreed to at the third level that directly restrain the extent to which the political process at the second level can intrude upon the realm of private choice and individual liberty at the first level.

Such direct restraints, binding on the government, require an enforcement institution. The institution developed in the United States is judicial review, whereby courts, largely insulated from the political process, apply constitutional rules to restrain and control government action.¹⁴

Committed as we are to maintaining an effective representative government and to securing a wide range of individual liberties, how should we allocate decisionmaking among these three decisionmaking levels? What kind of decisions should we reserve to the private sphere at the first level and how should we protect them? We have established a balanced representative government at the second level. What range of decisions should it be allowed to make? What latitude should we give representative government in its decisionmaking ability? How far should we defer to the majority? Finally, to what extent should we set specific constitutional rules at the third level to interdict the decisions of the representative political process?

One key insight of the Federalists was that there are costs associated with packing protections into the third level in the form of constitutional restraints wielded against representative government. Do we necessarily become more free and do our

12. *See id.* at 513-14.

13. *See* Letter from James Madison to Thomas Jefferson (Sept. 6, 1787), in 10 THE PAPERS OF JAMES MADISON 163-64 (Robert Rutland et al. eds., 1977); *see also* ROSSITER, *supra* note 7, at 284, 302-05.

14. *See* U.S. CONST. art. III, § 2; *Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803).

freedoms become more secure if we have more level three constitutional constraints? As Publius observed in *The Federalist Number 51*, “[i]n framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.”¹⁵ As this insight suggests, we have two goals that are somewhat in tension. On the one hand, we want effective civil government because effective government is essential to securing individual liberties. On the other hand, unconstrained government, even a representative one, can threaten the liberties it has been established to protect. Yet, as we impose direct restraints on representative government, we risk inhibiting government’s effectiveness and thus risk losing important freedoms. For example, the more procedural constraints that apply to the government as it attempts to perform its police functions, the less able the government becomes at protecting persons and property.¹⁶

Applying excessive restraints to second level decisionmaking, in the form of constitutional rules, also creates an adversarial relationship between the individual and his representative government. Such a relationship undermines the individual’s sense of belonging to a community and reduces the ability of the government to embody and express the community’s values. Instead of a self-governing community, we may become a collection of Rousseau’s noble savages with no meaningful bond to one another.¹⁷ At that point, we will have lost any meaningful individual rights to another enemy—not the government, but licentiousness. Publius warned that “liberty may be endangered by the abuses of liberty as well as by the abuses of power; that there are numerous instances of the former as well as of the latter; and that the former, rather than the latter, is apparently most to be apprehended by the United States.”¹⁸ Thus, what seemed like a simple question at the outset, is in fact a very complex dilemma of political theory. With contributions from both the Federalist and Anti-Federalist camps, our Framers arrived at a particular calibration of what I have called level three and level two decisionmaking. The task

15. THE FEDERALIST No. 51, at 322 (James Madison) (Clinton Rossiter ed., 1961).

16. See THE FEDERALIST No. 10, at 83 (James Madison) (Clinton Rossiter ed., 1961).

17. See JEAN-JACQUES ROUSSEAU, THE SOCIAL CONTRACT AND DISCOURSES (Maurice Cranston trans., 1979).

18. THE FEDERALIST No. 63, at 387-88 (James Madison) (Clinton Rossiter ed., 1961).

of our panelists is no less than to revisit and critique that balance.

Fighting the International Drug War: Justice Department official defends foreign seizure of criminals

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Body

Extraditing drug traffickers and seizing foreign terrorists in their homelands are just some of the strategies the U.S. government can use to step up its role in the global drug war.

That was one consensus of a group of experts at a recent conference exploring ways to counter the violence of the international drug cartels. Panelists included officials from the Organization of American States and the U.S. Departments of Justice, State and Defense.

Remedies proposed by various speakers at the program, entitled "Strengthening the Rule of Law in the War Against Drugs and Narco-Terrorism," ranged from providing security protection for prosecutors and judges to enhancing border interdiction programs.

Seizure Justified

William P. Barr, a deputy attorney general in the Justice Department's Office of Legal Counsel, defended seizing foreign criminals and spiriting them to this country for trial, saying such actions are legally justified.

"Some foreign governments have unfortunately failed to take steps to protect the United States from [drug traffickers]," Barr said, "and others actually act in complicity with these groups."

It is for this reason, Barr continued, that "Congress has enacted laws to criminalize terrorist conduct wherever it occurs."

While refusing to discuss current cases, Barr said the government's authority to seize foreign nationals in their countries is grounded in domestic law authorizing the president or his agents to "take direct actions which depart from customary international law."

Barr also declined to reveal the contents of an opinion issued in 1989 by the Justice Department's legal counsel outlining legal authority for the FBI and other government agencies to make extra-territorial arrests. However, he did say the 1989 opinion "partially reversed" a 1980 opinion issued by the Justice Department in the Carter administration.

Fighting the International Drug War: Justice Department official defends foreign seizure of criminals

That earlier document, which Barr deemed to be "flawed," expressed the view that the United States has no authority under its own laws to conduct law-enforcement operations in another country without that country's consent.

Barr referred also to another opinion issued last year by the Justice Department's legal counsel stating that posse comitatus laws, which forbid members of the U.S. armed forces to enforce law against civilians, do not apply to servicemen stationed overseas.

Thus, the opinion, which was leaked to the media, said it is lawful for U.S. military personnel to arrest drug traffickers and terrorists in their own countries.

Mark M. Richard, director of the Office of International Affairs at the Justice Department, which handles extradition requests to and from foreign jurisdictions, told the conferees that the United States is seeking to update its extradition treaties with other countries.

"Many of our treaties are obsolete," he said. "Many do not embrace those offenses we in this day and age consider to be important in dealing with narcotics enforcement, such as violations of RICO statutes and money laundering."

In the meantime, Richard said, the United States relies on legal authority to apprehend money launderers and freeze the assets of drug traffickers provided by mutual assistance treaties and the Vienna Convention on Drug Abuse, which has been adopted by more than 30 countries.

While the Justice Department defends its activist war on drugs, some critics charge that the government has been overzealous in its prosecution of accused narcotics traffickers. (See "The Abello Conspiracy," December 1990 ABA Journal, at page 54.)

And, even though the United States continues to focus many efforts outside the country, almost 75 percent of all illegal drugs are consumed in the United States, said Irving G. Tragen, secretary of the Inter-American Drug Abuse Control Commission at the Organization of American States. The drug trade's estimated annual profits are \$ 500 billion, he said.

The two-day conference, held in Washington, D.C., was sponsored by the ABA's Standing Committee on Law and National Security and the University of Virginia's Center for National Security Law.